

VIDEOTAPE DEPOSITION OF JOEL A. GRATZ 1/30/2012

<p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN</p> <hr/> <p>ALVIN BALDUS, CINDY BARBERA, CARLENE BECHEN, RONALD BIENDSEIL, RON BOONE, VERA BOONE, ELVIRA BUMPUS, EVANJELINA CLEEREMAN, SHEILA COCHRAN, LESLIE W. DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH, CLARENCE JOHNSON, RICHARD KRESBACH, RICHARD LANGE, GLADYS MANZANET, ROCHELLE MOORE, AMY RISSEUW, JUDY ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-BELL, CECELIA SCHLIEPP, and TRAVIS THYSSEN,</p> <p style="text-align: center;">Plaintiffs,</p> <p>TAMMY BALDWIN, GWENDOLYNNE MOORE, and RONALD KIND,</p> <p style="text-align: center;">Intervenor-Plaintiffs,</p> <p style="text-align: center;">v. File No. 11-CV-562</p> <p>Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE,</p> <hr/> <p style="text-align: center;">[Caption Continued]</p> <p style="text-align: center;">VIDEOTAPE DEPOSITION</p> <p style="text-align: center;"><u>JOEL A. GRATZ</u></p> <p style="text-align: center;">Madison, Wisconsin January 30, 2012</p> <p style="text-align: center;">Brandé A. Browne, RPR, CRR Registered Professional Reporter</p>	<p style="text-align: center;"><u>I N D E X</u></p> <table style="width: 100%;"> <thead> <tr> <th style="text-align: left;">2 <u>Witness</u></th> <th style="text-align: right;">Pages</th> </tr> </thead> <tbody> <tr> <td>3 JOEL A. GRATZ</td> <td></td> </tr> <tr> <td>4 Examination by Ms. Lazar</td> <td style="text-align: right;">7</td> </tr> <tr> <td>5 Examination by Mr. Kelly</td> <td style="text-align: right;">57</td> </tr> <tr> <td>6</td> <td></td> </tr> <tr> <td>7</td> <td></td> </tr> <tr> <td>8</td> <td></td> </tr> <tr> <td>9 <u>E X H I B I T S</u></td> <td></td> </tr> <tr> <td>10 <u>No. Description</u></td> <td style="text-align: right;"><u>Identified</u></td> </tr> <tr> <td>11 1026 Deposition notice and subpoena</td> <td style="text-align: right;">8</td> </tr> <tr> <td>12 1027 Response to subpoena in CD form</td> <td style="text-align: right;">9</td> </tr> <tr> <td>13 1028 PowerPoint Redistricting Overview</td> <td style="text-align: right;">57</td> </tr> <tr> <td>14 1029 Memo to Representative Peter Barca</td> <td style="text-align: right;">76</td> </tr> <tr> <td>15 1030 Discussion points</td> <td style="text-align: right;">79</td> </tr> <tr> <td>16 1031 Memo to Scott Adrian</td> <td style="text-align: right;">85</td> </tr> <tr> <td>17 1032 Packet of e-mails</td> <td style="text-align: right;">91</td> </tr> <tr> <td>18</td> <td></td> </tr> <tr> <td>19</td> <td></td> </tr> <tr> <td>20 (The original exhibits were attached to the original</td> <td></td> </tr> <tr> <td>21 transcript and copies were provided to counsel)</td> <td></td> </tr> <tr> <td>22</td> <td></td> </tr> <tr> <td>23</td> <td></td> </tr> <tr> <td>24</td> <td></td> </tr> <tr> <td>25 (The original deposition transcript was filed with</td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;">Attorney Maria S. Lazar)</td> </tr> <tr> <td></td> <td style="text-align: center;">3</td> </tr> </tbody> </table>	2 <u>Witness</u>	Pages	3 JOEL A. GRATZ		4 Examination by Ms. Lazar	7	5 Examination by Mr. Kelly	57	6		7		8		9 <u>E X H I B I T S</u>		10 <u>No. Description</u>	<u>Identified</u>	11 1026 Deposition notice and subpoena	8	12 1027 Response to subpoena in CD form	9	13 1028 PowerPoint Redistricting Overview	57	14 1029 Memo to Representative Peter Barca	76	15 1030 Discussion points	79	16 1031 Memo to Scott Adrian	85	17 1032 Packet of e-mails	91	18		19		20 (The original exhibits were attached to the original		21 transcript and copies were provided to counsel)		22		23		24		25 (The original deposition transcript was filed with			Attorney Maria S. Lazar)		3
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<p>and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,</p> <p style="text-align: center;">Defendants,</p> <p>F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and SEAN P. DUFFY,</p> <p style="text-align: center;">Intervenor-Defendants.</p> <hr/> <p>VOCES DE LA FRONTERA, INC., RAMIRO VARA, OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v. Case No. 11-CV-1011 JPS-DPW-RMD</p> <p>Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,</p> <p style="text-align: center;">Defendants.</p> <hr/>	<p>1 VIDEOTAPE DEPOSITION of JOEL A. GRATZ,</p> <p>2 a witness of lawful age, taken on behalf of the</p> <p>3 Plaintiffs, wherein Alvin Baldus, et al., are</p> <p>4 Plaintiffs, and Members of the Wisconsin Government</p> <p>5 Accountability Board, et al., are Defendants, pending</p> <p>6 in the United States District Court for the</p> <p>7 Eastern District of Wisconsin, pursuant to subpoena</p> <p>8 and notice, before Brandé A. Browne, a Registered</p> <p>9 Professional Reporter and Notary Public in and for</p> <p>10 the State of Wisconsin, at the offices of</p> <p>11 Reinhart Boerner Van Deuren S.C., Attorneys at Law,</p> <p>12 22 East Mifflin Street, Suite 600, City of Madison,</p> <p>13 County of Dane, and State of Wisconsin, on the 30th</p> <p>14 day of January 2012, commencing at 9:11 in the</p> <p>15 forenoon.</p> <p>16</p> <p>17</p> <p>18 <u>A P P E A R A N C E S</u></p> <p>19 WENDY K. ARENDS, Attorney,</p> <p>20 for GODFREY & KAHN, S.C., Attorneys at Law,</p> <p>21 One East Main Street, Suite 500, Madison,</p> <p>22 Wisconsin 53703, appearing on behalf of</p> <p>23 Plaintiffs Alvin Baldus, et al.</p> <p>24</p> <p>25 PETER G. EARLE, Attorney,</p> <p>for LAW OFFICE OF PETER EARLE, LLC, Attorneys at Law,</p> <p>839 North Jefferson Street, Suite 300,</p> <p>Milwaukee, Wisconsin 53202, appearing</p> <p>telephonically on behalf of Plaintiffs</p> <p>Voces De La Frontera, Inc., et al.</p>																																																				

VIDEOTAPE DEPOSITION OF JOEL A. GRATZ 1/30/2012

1 A P P E A R A N C E S (Continued)

2

3 MARIA S. LAZAR, Assistant Attorney General,
4 for STATE OF WISCONSIN DEPARTMENT OF JUSTICE,
5 17 West Main Street, Madison, Wisconsin 53703,
6 appearing on behalf of the Defendants.

7

8 DANIEL KELLY, Attorney,
9 for REINHART BOERNER VAN DEUREN S.C.,
10 Attorneys at Law, 1000 North Water Street,
11 Suite 2100, Milwaukee, Wisconsin 53202,
12 appearing on behalf of the Defendants.

13

14 Also present: Todd S. Campbell, CLVS
15 Campbell Legal Video Company
16 417 Heather Lane, Suite B
17 Fredonia, WI 53021
18 (262) 447-2199

19 (Exhibit Nos. 1026 and 1027 marked for
20 identification)

21 THE VIDEOGRAPHER: We are on the
22 record. Seated before you is Mr. Joel Gratz.
23 This is Video No. 1 of his video deposition,
24 taken pursuant to notice and subpoena at the
25 instance of defendants in the matter of
 Alvin Baldus, et al. versus Members of the
 Wisconsin Government Accountability Board,
 et al. This matter is pending in the
 United States District Court, Eastern
 District for the State of Wisconsin,

5

1 Case No. 11-CV-562. This deposition is
2 taking place at the law offices of
3 Reinhart Boerner & Van Deuren,
4 22 East Mifflin Street in Madison, Wisconsin.
5 The date is Monday, January 30th, 2012, and
6 the time is 9:11 a.m. I am Todd Campbell,
7 videographer with Campbell Legal Video
8 Company. The court reporter is Brandé Browne
9 with For the Record Reporting. Would counsel
10 please introduce themselves, first starting
11 with the plaintiff.

12 MS. ARENDS: Wendy Arends,
13 Godfrey & Kahn for the plaintiff.

14 MR. EARLE: Peter Earle,
15 The Law Office of Peter Earle for the Voces
16 plaintiffs.

17 MS. LAZAR: Assistant Attorney
18 General Maria Lazar for Members of the
19 Wisconsin Government Accountability Board,
20 their director, and general counsel in their
21 official capacity, together with --

22 MR. KELLY: Daniel Kelly for
23 Reinhart Boerner Van Deuren.

24 THE VIDEOGRAPHER: Thank you.
25 Would the court reporter please swear in

6

1 Mr. Gratz.

2

3 JOEL A. GRATZ,
4 called as a witness, being first duly sworn,
5 testified on oath as follows:

6

7 EXAMINATION

8 By Ms. Lazar:

9 Q Good morning, Mr. Gratz. Have you given a
10 deposition before?

11 A No.

12 Q Okay. And I'm going to give you a few basic
13 ground rules; they're very simple. First of all,
14 when I ask you a question, you have to answer with
15 a yes or no because the court reporter can't take
16 an uh-huh or a nod; so do you understand that?

17 A Yes.

18 Q Okay. Next, if I ask you a question that you
19 don't understand, ask me to clarify it or ask for
20 an explanation. If you don't do that, I'm going
21 to assume you understand my question when you
22 answer it; is that acceptable?

23 A Yes.

24 Q If at any point in time you need to take a break,
25 just let me know. If you need a glass of water,

7

1 coffee, whatever, just let me know. Starting with
2 that, Mr. Gratz, you're here pursuant to a
3 deposition notice and subpoena; is that correct?

4 A Yes.

5 Q And I'm going to show you what has been marked as
6 Exhibit 1026; do you recognize that document?

7 A Yes, I do.

8 Q And that is the deposition notice and subpoena?

9 A Yes, that's correct.

10 Q And if you turn to the second last page, there's
11 an Exhibit A. Did you review that Exhibit A with
12 your counsel?

13 A Yes, I did.

14 Q And did you produce any documents pursuant to that
15 Exhibit A?

16 A Yes.

17 Q And in that regard, I'm going to show you what has
18 been marked as Exhibit 1026 and that's a CD, and
19 what is on that CD?

20 A This CD generally includes things that are
21 responsive to the items listed here in regards to
22 redistricting.

23 Q And what would that be?

24 A There would be on here some e-mail communication
25 between myself and staff people in the

8

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1 legislature. There would be files on here that
2 would be related to drawing redistricting maps,
3 including some draft maps by various entities.
4 There would be some documents that would be
5 analysis of maps that were introduced into the
6 legislature. I believe that generally covers
7 what's on here.
8 Q Okay. And I didn't ask for the record, but
9 Exhibit 1027 is your response to the subpoena?
10 A Yes, that's correct.
11 Q Is there anything that you have not produced that
12 you're holding back on privilege grounds or any
13 other grounds in response to the subpoena?
14 A Yes.
15 Q And what is a general list of those items?
16 A Generally, there are e-mail communications between
17 myself and the Godfrey & Kahn law firm and their
18 employees.
19 Q And is that -- that's the only category of
20 documents you haven't produced?
21 A And then I guess along with that would be some --
22 a few handwritten notes that were also related
23 to --
24 MS. ARENDS: Actually, if I could
25 interject, those were actually -- we did

9

1 produce the responsive handwritten notes.
2 Q Okay. So what you haven't produced pursuant to
3 privilege are e-mails between yourself and
4 attorneys or staff at Godfrey & Kahn?
5 A Correct.
6 Q Okay. We'll get back to those documents in a
7 second. What is your relationship with
8 Godfrey & Kahn? When were you retained?
9 A I was retained approximately early summertime of
10 2011.
11 Q And what were you retained to do?
12 A I was retained by them to provide -- well, to
13 review redistricting proposals that were
14 introduced or passed by the legislature and
15 provide assistance to experts in preparing
16 analysis of those maps.
17 Q Is there a retainer letter that describes your
18 duties?
19 A Yes.
20 Q And do you have a copy of that?
21 A No, I do not believe so.
22 Q And who exactly was your client in that retainer
23 letter?
24 MS. ARENDS: Objection, he already
25 stated who the client was, I mean.

10

1 Q So the client is Godfrey & Kahn?
2 A Correct.
3 Q So your client is not any democratic legislature,
4 it's Godfrey & Kahn?
5 A Correct.
6 MS. ARENDS: Well, the client is
7 the plaintiffs, so -- he has been retained as
8 a litigation consultant for Godfrey & Kahn.
9 Q Okay. Now, in the documents you provided, you
10 indicated there were e-mails between you and staff
11 people in the legislature. I'm -- apologize that
12 I'm asking you to do this without looking at it.
13 Can you give me a general idea of who all you
14 communicated with by e-mail?
15 A I don't know that this will be completely
16 inclusive, but generally it would have been -- the
17 e-mail communications would include Scott Adrian.
18 Q And who is Scott Adrian?
19 A At the time I was communicating with him, he would
20 have been a staff person for Mike -- a
21 representative for Mike Sheridan. Rich Judge, who
22 was a staff person previously for
23 Representative Sheridan and currently
24 Representative Barca. Jamie Kuhn, a staff person
25 for Senator Mark Miller, and Mike Browne, a staff

11

1 person also for Senator Mark Miller.
2 Q And what approximate -- you were retained by
3 Godfrey & Kahn in early summer of 2011. Do these
4 e-mails precede that retention date?
5 A Correct.
6 Q Okay. Are there any other e-mails that you can
7 think of that you would have directed to any other
8 staff of the legislature?
9 A Not that I can recall.
10 Q So basically, you contacted staff persons for
11 Representative Sheridan, Barca, and
12 Senator Miller?
13 A Correct.
14 Q All right. You also indicated that you had
15 several files with drawing of maps. What do you
16 mean by that?
17 A These would be files that are in the form that the
18 redistricting software used by the legislature,
19 Autobound, creates and --
20 Q Excuse me, I'm sorry. I apologize. Did you have
21 a copy of Autobound?
22 A I used the legislature's copy of Autobound.
23 Q Okay, continue.
24 A The maps that would be on there would be maps that
25 were introduced into the legislature. The

12

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1 original map that was introduced as well as -- I
2 believe there was at least one amended map that
3 was introduced as legislation.
4 Q Now, what you're talking about is the maps that
5 were eventually introduced as Act 43?
6 A Correct.
7 Q Okay. And the amendment to Act 43?
8 A Correct.
9 MR. EARLE: Excuse me, Maria?
10 MS. LAZAR: Yeah.
11 MR. EARLE: Did you inadvertently
12 clip his answer? Was his answer complete?
13 MS. LAZAR: No, he's still
14 continuing his answer.
15 MR. EARLE: Could you, just for the
16 sake of me on the phone, refrain from
17 clipping his answers and allow him to
18 complete his answers and reserve your
19 observation until he does complete it?
20 MS. LAZAR: I will try to do so,
21 Peter.
22 MR. EARLE: All right. Thank you.
23 MS. LAZAR: Thank you.
24 Q Mr. Gratz, you were still continuing on the
25 drawings of maps, you had indicated it was Act 43

13

1 and the amendment?
2 A Act 43, the amendment, the proposal that
3 eventually became Act 44, the congressional map.
4 There is a map that was drawn by
5 Representative Kessler, and then there was a map
6 that was drawn, an incomplete map, I would say,
7 drawn by myself, and I think that concludes the
8 maps that are on that CD.
9 Q Okay. So you said Act 43 and the amendment, which
10 is the legislative boundaries; Act 44,
11 congressional boundaries. A Kessler map, describe
12 that, please.
13 A It was a map of Assembly districts, and by the
14 nature of Assembly districts in Wisconsin, the
15 Senate districts as well. I couldn't describe to
16 you or otherwise detail what it looks like
17 exactly.
18 Q Was that also a congressional map or just a state
19 legislative map?
20 A Just state legislative.
21 Q Are you familiar with any of the pleadings in this
22 case? And let me explain that a little further.
23 Are you familiar with an amicus motion that was
24 filed that has a map purportedly by Fred Kessler?
25 A Yes, I am.

14

1 Q And is that the same map?
2 A I have not reviewed them to know.
3 Q Okay. You also indicated you had an incomplete
4 map you had done by yourself?
5 A Correct.
6 Q State or congressional boundaries?
7 A State Assembly boundaries.
8 Q Just State Assembly boundaries, not Senate?
9 A Well, by the nature of the three Assembly
10 districts to one Senate district, you could infer
11 Senate districts.
12 Q And what was incomplete about that map?
13 A The, I guess, completion is in the eye of the
14 beholder to some extent in map drawing. But I
15 would say generally, it did not, as I recall, it
16 has been some time since I looked at it, get
17 population deviations to an acceptable level in
18 all districts. It may not have, you know,
19 minimized some of the municipal splits. It just
20 was -- I would say, generally, I did not consider
21 a final product.
22 Q And why did you draw that incomplete map?
23 A I drew that map after discussions with Assembly
24 and Senate staff mentioned earlier to, at their --
25 you know, after discussions with them, so that if

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1 they chose to introduce a map into the legislature
2 as an alternative, one was available.
3 Q Now, taking a step back, when did you draw that
4 incomplete map?
5 A That would have taken place on the weekend
6 immediately prior -- no, immediately after the map
7 which was eventually adopted was first introduced
8 or unveiled, which I believe was on a Friday
9 afternoon. I don't know the exact date, but it --
10 the work took place over that weekend immediately
11 after the map that eventually was adopted.
12 Q And so that would have been in July of 2011?
13 A Not -- not having the calendar in front of me to
14 review the exact date of when that was introduced,
15 I would not want to say.
16 Q Could you say at that time had you been retained
17 by Godfrey & Kahn?
18 A Not knowing the -- not having the calendar with
19 those dates in front of me, I could not say for
20 sure. I do not believe so.
21 Q Because I was trying to pinpoint a little bit.
22 You had said you were retained in -- I think I
23 believe you stated you were retained in early
24 summer of 2011. Just off the recollection of what
25 you have today, do you know if that was before or

16

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1 after Acts 43 and 44 were introduced to the
2 Senate Assembly?
3 A I believe I was retained by Godfrey & Kahn after
4 those were introduced.
5 Q I'm not going to hold you to that. We'll get the
6 retainer letter. We'll have exact dates. I'm
7 just trying to get a sense if you recalled when
8 that was. At the time that you drew this map,
9 were you doing it on behalf of anyone? Did you
10 have a client at that time?
11 A I was not paid by or hired by anyone. I was
12 mainly doing it as a public service for others who
13 I had worked with in the legislature in the past.
14 Q Well, let's get into that a little bit. What is
15 your association with the legislature?
16 A Formal association?
17 Q Formal and then we'll go to informal.
18 A There is no formal, you know, association or
19 employment with the legislature at this time nor
20 at the time when -- when I would have been working
21 on that map with them.
22 Q Is there an informal association?
23 A I would say yes.
24 Q And what would that be?
25 A Again, I have been previously a legislative

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1 employee who worked on redistricting, and you
2 know, offered my assistance to the legislative
3 leadership and staff, you know, from time to time
4 on redistricting.
5 Q Okay. I know we're still going through the
6 documents that you produced, and I'll make a note
7 to myself about where we sat there. Let's go back
8 and do a little background information. What is
9 your professional career?
10 A I would say, broadly, I do political consulting
11 and political campaign work.
12 Q And do you have a company that --
13 A I have my own business called Forward Strategies.
14 Q And when was that formed?
15 A It was formed in approximately January of 2003.
16 Q And what is that corporation, an Inc.?
17 A It's an LLC.
18 Q Thank you. And what does Forward Strategies do?
19 A We do a variety of political work. One aspect of
20 the political work we do is polling for political
21 campaigns. We operate a small call center and
22 conduct public opinion surveys. We're employed by
23 political campaigns to do so. Also provide
24 consulting services that generally relate to data
25 and technology for political campaigns. The use

18

1 and preparation of voter lists, mailing lists,
2 that kind of thing for political campaigns or
3 other political organizations.
4 Q How many employees of Forward Strategies?
5 A There are, including myself, two full-time
6 employees and approximately a half-dozen part-time
7 employees that work in the call center.
8 Q And would there be a certain political tilt to
9 your clients?
10 A Pretty much all of my clients that are political
11 tend to be democrats. Although, I have
12 occasionally worked for interest groups that are
13 probably otherwise affiliated.
14 Q And do you have any professional degrees?
15 A Professional, I graduated from the UW of Madison
16 with an undergraduate degree. I'm not sure if you
17 meant beyond that.
18 Q And what was your undergraduate degree?
19 A It was in economics.
20 Q And when was that?
21 A That was 1995.
22 Q And what did you do after you graduated?
23 A Immediately after I graduated or broadly?
24 Q Well, we can start, just start listing --
25 A My first job after college, I spent a year

19

1 managing a small business, Four Star Video.
2 After that year, I went to work for the
3 Assembly Democratic Caucus. I worked for that
4 caucus for approximately two and a half years, I
5 believe. At which point I took a job working for
6 the Science Museum of Minnesota in St. Paul. I
7 worked in the Science Museum in their development
8 office for approximately two years, and returned
9 to Madison then to work for the Senate Democratic
10 Caucus in the summer of 2000. I worked for the
11 Senate Democratic Caucus until it -- it was
12 dissolved. I don't remember the exact date of
13 that.
14 There was a subsequent office called the
15 office of -- Office of Policy and Budget, I
16 believe it was called, and worked for that office
17 for a number of -- for probably a year or so,
18 working primarily on redistricting. I then --
19 there was a brief period of time where I took a
20 leave from the State and worked exclusively on
21 campaign work for the Senate Democratic Campaign
22 Committee, as I recall. And then spent a number
23 of years working for State Senator Russ Decker.
24 And then I believe it was in 2005, left Senate
25 employment and State employment entirely to go

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1 work full-time for my -- at my business.
2 Q Forward Strategies?
3 A Correct. I would say -- I would conclude by
4 saying in addition to the -- having the business
5 Forward Strategies, I also, within the last month
6 and a half, took a job or additional work as
7 director of the Assembly Democratic Campaign
8 Committee.
9 Q You started out, you worked for Four Star Video;
10 what was that company?
11 A What were they?
12 Q Yes.
13 A They were a small business video store.
14 Q Okay. And the were means they no longer are?
15 A I believe they actually still exist. The
16 ownership changed a number of years ago, I know.
17 Q And what did you do for Four Star Video?
18 A I was first the operations and then eventually the
19 general manager.
20 Q Then next you worked for the Assembly Democratic
21 Caucus for two and a half years?
22 A Correct.
23 Q What did you do for the caucus?
24 A I was generally a caucus analyst. My main
25 function was to assist legislative offices with

21

1 their -- accessing the voter files so those
2 offices could contact their constituents.
3 Q Okay. When you were working for the
4 Science Museum, I'll take it you had no
5 redistricting tasks?
6 A Correct.
7 Q Then next you worked for the Senate Democratic
8 Caucus. Did you -- what did you do for the
9 democratic caucus?
10 A Again, a big part of it was similar to the
11 Assembly caucus work, that I was helping the
12 incumbent legislative offices work with the lists
13 of their constituents and other kind of data and
14 technology needs. And that's when I also began --
15 this was during the time leading up to the
16 redistricting, and so I began to familiarize
17 myself with redistricting software, the concepts
18 of redistricting, attending conferences relating
19 to redistricting, and that sort of thing.
20 Q And that would be around the 2000 census?
21 A Correct.
22 Q And what exactly did you do with regard to
23 redistricting?
24 A Ultimately, I drew the maps that were -- that the
25 Senate leadership introduced and ultimately passed

22

1 in the State Senate. And then I also worked with
2 the -- a plan in 2000 -- after the 2010 census, a
3 plan was not agreed to by both houses, so there
4 was litigation, and I worked with the attorneys
5 providing the analysis they needed and the
6 experts -- providing information the experts
7 needed at that time for litigation.
8 Q And I apologize, you said that was in 2010?
9 A No, that was in 2000, or really the work would
10 have happened in 2001, 2002.
11 Q Explain that again because I must have missed
12 that, and I apologize.
13 A So I first drew the map that was ultimately passed
14 by the State Senate. That was passed by the
15 Senate, I would have to go back and look and see
16 for the exact date. But the Senate passed a plan.
17 The State Assembly passed a different plan, there
18 was not agreement. So there was litigation at
19 that time over redistricting in federal court, and
20 I worked for the law firms that were employed by
21 the legislature at that time to provide the
22 analysis and data needs for litigation in that
23 case.
24 Q And in that case, you were representing the
25 democratic legislature?

23

1 A I was representing the State Senate who were --
2 you know, who had a democratic majority at that
3 time.
4 Q Okay. You mentioned that you went to
5 redistricting conferences in about 2000?
6 A Correct.
7 Q And what were those?
8 A I would have attended one or more NCSL, National
9 Conference of State Legislature's conferences that
10 they put on specifically on redistricting,
11 including all aspects from the technology of
12 redistricting, legal aspects, and so on of
13 redistricting.
14 Q You also mentioned that you used the redistricting
15 software. In 2000 was it still the same,
16 Autobound?
17 A It was an earlier version of Autobound, yes.
18 Q Okay. Then you indicated that you -- I think this
19 may have been what you've just been talking about.
20 You indicated the office of policy and budget; is
21 that the redistricting work that we're talking
22 about?
23 A Yes, there was -- the Senate caucus existed up
24 until there was a time where there was an
25 agreement to get rid of the caucuses, and a small

24

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1 number of staff were kept on in this office of
2 policy and budget. I was one of those people who
3 was kept on. So there was kind of a transition or
4 downsizing from caucus to policy and budget staff.
5 Q And it was in the same time frame that you're
6 talking about the redistricting and attending the
7 conferences and doing some analysis and data work?
8 A Correct.
9 Q Next, you indicated you left the State and did
10 some work on the Senate Democratic Campaign
11 Committee?
12 A Correct.
13 Q Did you do any work regarding redistricting for
14 them?
15 A No, I do not believe so.
16 Q Then you worked for Senator Russ Decker?
17 A Correct.
18 Q Any work on redistricting at that time?
19 A I worked on legislative matters broadly at that
20 time. I suspect that we would have talked about
21 potential legislation and concepts regarding
22 redistricting on a longer time horizon given the
23 time frame when I was working for him.
24 Q And lastly, you mentioned in the last month and a
25 half you've now taken the position as director of

25

1 the Assembly Democratic Campaign Committee?
2 A Correct.
3 Q And what do you do in that position?
4 A My job is to manage and oversee campaigns for
5 State Assembly, to try to recruit candidates for
6 Assembly races and provide them guidance and
7 instruction on successful campaigns.
8 Q Have you ever been a lobbyist?
9 A I have not.
10 Q Jumping back to the CD that you brought in, you
11 mentioned the files, the e-mails, the files with
12 drawing maps; you said you had drafts by other
13 entities. What did you mean by that?
14 A I think -- well, what I meant was the Fred Kessler
15 map that is on here. There is the maps the
16 legislative majority republicans drew. I don't
17 know that there's any, as I said, I don't know
18 that there's any other maps on there.
19 Q That's what you meant by drafts by other entities?
20 A Correct.
21 Q Okay. You also indicated you had documents with
22 analysis of the maps introduced?
23 A Correct.
24 Q And what does that consist of?
25 A There will be, I believe, from my recollection,

26

1 there are spreadsheets that show, for instance,
2 which legislatures are paired into the same
3 district. That was one thing that immediately
4 after the maps were introduced, everyone was
5 interested in. There will be maps that show the
6 population -- not maps, spreadsheets that show the
7 population demographics of the different maps or
8 at least some of the maps. I won't say that it's
9 all of the maps. I think it primarily would be
10 the map that was actually introduced and
11 ultimately passed. There will be spreadsheets or
12 PDFs that show the population retention, comparing
13 the old 2001 districts to the proposed 2011
14 districts. I believe that's -- I think that's
15 what covers what the analysis would have.
16 Q And that analysis was prepared by you?
17 A Correct.
18 Q Okay. You also mentioned some handwritten notes;
19 what were those?
20 A The handwritten notes, I don't recall exactly
21 what -- without looking at them, I would not be
22 able to answer that.
23 Q Any handwriting that we'd find on the CD would be
24 your handwriting?
25 A There may be others' handwriting. I would have to

27

1 look at it again to say for sure.
2 Q Okay. You -- you mentioned the map files, the
3 Act 43 and 44, the Kessler map, and what you
4 deemed your incomplete map. Do you know if the
5 Kessler map or your incomplete map were ever
6 introduced in Wisconsin?
7 A As far as I know, no.
8 Q Do you know why they were not?
9 A I do not.
10 Q Do you know if there was any discussion about
11 introducing them?
12 A I do not.
13 Q Do you know if there was any ban or impediment to
14 introducing them?
15 A I do not.
16 Q In your e-mails to Representatives Sheridan,
17 Barca, and Senator Miller, what were you in
18 general discussing?
19 A The e-mails would have been to their staff, not to
20 them directly.
21 Q I apologize, to their staff. What were you
22 discussing with their staff members?
23 A I believe the e-mails are generally, you know,
24 when can we get together to, you know, look at,
25 you know -- for me to access their computer to run

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1 the analysis, and you know, scheduling of times to
2 do that. I may have e-mailed them the same
3 analysis that otherwise appears on the disk as
4 well, those spreadsheets, the population changes
5 and pairings and that sort of thing.
6 Q And you mentioned those spreadsheets regarded
7 Act 43 and 44?
8 A Correct.
9 Q Did you ever get together with the staff members
10 and/or the representatives -- let's strike that.
11 Did you ever get together with the staff members?
12 A Yes.
13 Q And how many times did you do that?
14 A I don't have an exact number, I would say.
15 Q Would you have done that before or after Act 43
16 and 44 were introduced?
17 A After.
18 Q And what was the purpose of those meetings?
19 A The purpose of those meetings was to, you know,
20 discuss, you know, whether they wanted a map
21 drawn -- a draft map drawn to have one available.
22 Q And that would be a draft map to counter Act 43
23 and 44?
24 MS. ARENDS: Objection.
25 MR. EARLE: Objection to the form

29

1 of that question.
2 A I don't know. I would not want to say whether to
3 counter it. I don't know how I could answer that.
4 Q Well, let's rephrase. That was a draft of a map
5 that would have been different than Act 43 and 44?
6 A Correct.
7 Q Did you ever get together with the representatives
8 and not their staff?
9 A Not that I recall.
10 Q Did you ever get together with any democratic
11 representatives or senators?
12 A Not that I could recall for certain.
13 Q And I apologize. I should have been limiting this
14 temporally. I'm sure you have gotten together
15 with senators and democrats. I'm talking about
16 with regard to redistricting starting in or about
17 the summer of 2011 going forward?
18 A Yes, I understand that. Correct.
19 Q Okay. Have you ever testified as an expert in any
20 trial?
21 A I believe during -- I have never testified in
22 person, neither given a deposition or appeared in
23 court. I believe during the 2001 redistricting,
24 there were affidavits submitted that I would have
25 prepared.

30

1 Q Okay. But you don't recall being in court in that
2 case?
3 A I was not.
4 Q And you've never testified at any other trials?
5 A Correct.
6 Q Have you written any articles or texts on
7 redistricting?
8 A Ones which were published?
9 Q Yes.
10 A No.
11 Q Have you written any that were not published?
12 A I would have over time written, you know, memos
13 regarding redistricting over the course of the
14 last 10 years or so, but nothing that was
15 published.
16 Q And who did you write those for?
17 A That would have been while I was employed by the
18 legislature, so they would have been for the
19 legislatures I was working for at that time.
20 Q And would you still have copies of those memos?
21 A I would not.
22 Q During the time of about the summer of 2011 to
23 present, I mentioned contact with democratic
24 legislators in the State of Wisconsin. Did you
25 communicate with any democratic members from the

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1 National Democratic Committee regarding
2 redistricting?
3 A Can you restate the time frame?
4 Q Sure. The time frame would be from about the
5 summer of 2011 when Act 43 and 44 were introduced
6 through present?
7 A I don't believe so, no.
8 Q Did you communicate with any members of the
9 Democratic National Committee prior to the summer
10 of 2011 regarding redistricting?
11 A Democratic National Committee or members of
12 Congress?
13 Q We can do both. We'll start with Democratic
14 National Committee.
15 A I think in either case, the answer is no, I did
16 not communicate with any Democratic National
17 Committee staff people nor members of Congress.
18 Q And this would be just limited solely to anything
19 regarding redistricting from the 2010?
20 A Correct.
21 Q Did you give a presentation in August of 2011 to
22 the Wisconsin Association of Lobbyists in
23 Spring Green, Wisconsin?
24 A Yes, I did.
25 Q And how did you -- how were you asked to present

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1 at that association meeting?
 2 A I was invited by one of their members or
 3 leadership.
 4 Q And what were you invited to do?
 5 A I was invited to come and speak generally about
 6 the redistricting process and about what the
 7 new -- can't recall whether they were proposed or
 8 approved maps at that time, what they looked like.
 9 Q And what type of meeting was this? Was this a
 10 conference, an all day, a week, a what?
 11 A I don't know how long the whole thing was. The
 12 part on redistricting was approximately an hour
 13 and a half.
 14 Q And of that hour and a half, how long was your
 15 presentation?
 16 A 20, 25 minutes maybe.
 17 Q And who else presented during that time?
 18 A Representative -- former Representative
 19 Joe Handrick and I believe
 20 Attorney Mike Wittenwyler also gave a
 21 presentation.
 22 Q Mike Wittenwire?
 23 A Wittenwyler.
 24 Q And this was a conference that was in
 25 Spring Green. Do you know how many people

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1 attended?
 2 A I don't off the top of my head, no.
 3 Q When you gave your presentation, your 20, 25
 4 minutes, was it to a huge conference room? Was it
 5 to a small conference room like this? Do you have
 6 a sense?
 7 A It was in a lounge area. I would -- I would
 8 broadly range it could have been 25 to 40 people.
 9 Q And the people who were attending were whom?
 10 A As far as I know, they were all lobbyists.
 11 Q Do you have any records or documents regarding
 12 your presentation?
 13 A There was a PowerPoint, and that PowerPoint may as
 14 well be on the CD here.
 15 MS. ARENDS: And let me just
 16 interject here for a moment. The PowerPoint
 17 is on the CD.
 18 MS. LAZAR: Okay.
 19 Q And what was the purpose of your presentation?
 20 A The purpose was to, you know, generally educate
 21 the lobbyists about what the new districts looked
 22 like and also provide a, you know, a perspective
 23 of what they meant for democrats.
 24 Q So would you say this was more in line of -- it
 25 wasn't how you redistrict, but what to do with the

34

1 new districts?
 2 A It was both.
 3 Q Okay. And how much of your presentation was on
 4 how you redistrict?
 5 A I -- I don't know how to characterize how much
 6 time. I don't recall exactly how much was process
 7 versus the outcome.
 8 Q Did you tell the audience or the attendees that
 9 you felt the democrats could do well under the new
 10 maps?
 11 A I don't recall whether I said or did not say that.
 12 Q Do you recall what you told them regarding how the
 13 democrats would fare under the new maps?
 14 A I don't recall exactly what I told them at that
 15 time regarding that.
 16 Q When you were drawing your incomplete map for
 17 redistricting, you used the Autobound software at
 18 the legislature's offices?
 19 A Correct.
 20 Q Did you -- so the only terminals you used would
 21 have been there?
 22 A Correct.
 23 Q And where were those terminals located?
 24 A There was one -- there was one terminal I used,
 25 which was located in, I believe, what's called

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1 the -- it's a conference room that's associated
 2 with the Democratic Leadership offices.
 3 Q But in the Capitol?
 4 A Correct.
 5 Q And so you used the Democratic Leadership's
 6 terminals at the Capitol?
 7 A Correct.
 8 Q And you were not involved with the purchase of
 9 those terminals or anything to do with that,
 10 correct?
 11 A I did not purchase them. I had previously served
 12 on what's called the redistricting staff working
 13 group the year prior, and there was discussion of
 14 what needs the terminals ought to have, and so I
 15 would have been part of the discussion at that
 16 time just about what they should purchase. But I
 17 did not purchase or really directly be involved in
 18 the purchasing.
 19 Q But you -- from your understanding beforehand is
 20 that you believe the democratic leadership
 21 purchased those terminals that you used?
 22 A No, I believe that the State Legislative
 23 Technology Service Bureau did the purchasing.
 24 Q Okay. When you did your work drawing the maps,
 25 obviously you got materials and data about the

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1 census and the TIGER files. Where did you get
2 that information?
3 A That was already on those computers and prepared
4 by LTSB, the technology service bureau.
5 Q Do you know who put that on those computers?
6 A It was several members of their staff who work on
7 redistricting and GIS matters.
8 Q Did you have any -- did you have any access to
9 terminals at The Shop Consulting?
10 A I did not.
11 Q Have you ever gone to The Shop Consulting?
12 A Can you tell me what time period?
13 Q That would be a good question. Let's start with
14 from mid 2011 through present?
15 A No.
16 Q Have you gone there at any time in 2011?
17 A I doubt it.
18 Q And if you had gone there, there was some
19 hesitancy, what would you have gone there for?
20 MR. EARLE: Object to the form of
21 the question. You're asking him to
22 speculate.
23 A I would answer that I've never gone to
24 The Shop Consulting relating to redistricting at
25 all.

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1 Q Do you know -- explain what The Shop Consulting
2 is?
3 A I don't know all of what business they're involved
4 in. I have contact with them from time to time
5 because they also do political consulting and
6 campaign work.
7 Q So when you drew your maps, you did not use
8 The Shop Consulting?
9 A I did not.
10 Q Who assisted you in drawing your maps?
11 A There were -- assisted -- some of the
12 legislative staff people mentioned earlier from
13 the leadership offices may have been there while I
14 was working on the maps. As well, Mike White from
15 The Shop Consulting also would have been -- been
16 part of that process at times.
17 Q And what assistance did the legislative staff
18 provide you?
19 A We would have, you know, discussed kind of the --
20 you know, how the maps were coming, coming along
21 in regards to the various redistricting criteria.
22 Q And how did Mike White of The Shop Consulting help
23 assist you?
24 A He would have -- I believe Mike also actually, you
25 know, did some of the map drawing, the selections

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1 of various, you know, pieces of geography to go
2 into one district or another.
3 Q And he would have done some map drawing for your
4 map?
5 A Yes.
6 Q Okay. And he did that map drawing with you at the
7 terminals in the Capitol?
8 A He did it at the terminal in the Capitol.
9 Q Did he do any work at his, The Shop Consulting
10 location?
11 A I don't know one way or the other.
12 Q When you were drawing this map, how long did it
13 take?
14 A Are you asking in terms of hours or days?
15 Q Well, I guess either.
16 A My recollection is we worked on it over the --
17 mainly over the course of the weekend immediately
18 after the -- the other map was officially
19 introduced into the legislature, and maybe for a
20 few days after that. So over the course of four
21 days, and that's only an estimate.
22 Q And obviously not working all the time during
23 those four days?
24 A Right. And during that time, it's hard for me to
25 remember exactly how many hours.

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1 Q And you mentioned before this was just a
2 legislative boundary map, not congressional?
3 A Correct.
4 Q Who was given copies of your map?
5 A I don't know the answer to that. It resided on
6 their machine there. So I don't know who would
7 have had access to it.
8 Q Oh, that would have been my next question. Who
9 had access to the conference room and the
10 terminals?
11 MS. ARENDS: Objection.
12 A I don't know how.
13 Q When you left those rooms, were they locked? Did
14 you need a passkey to get in?
15 A Yes.
16 Q You mentioned redistricting criteria; what did you
17 mean by that?
18 A Well, the traditional redistricting criteria are
19 to, you know, minimize population deviations among
20 the districts, to create districts that are
21 compact and contiguous, to create districts that
22 recognize communities of interest. Those are the,
23 you know, the generally-accepted redistricting
24 criteria that all maps try to conform to.
25 Q Do you know with the map you drew, and it may not

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1 be, you said it wasn't complete, did you do the
2 districts that were in Milwaukee?
3 A I don't recall, you know, which ones I would have
4 worked on versus anyone else.
5 Q Do you recall whether or not you added another
6 African-American district to the districts that
7 had been identified in Act 43 for Milwaukee?
8 A Without reviewing it again, I don't recall.
9 Q But that would be in your map that's on the CD?
10 A Correct.
11 Q Do you know, did you have one or two districts for
12 Hispanics in the Assembly 8 and 9?
13 A I don't recall that one way or the other.
14 Q Do you know what the number of delayed voters or
15 sometimes called disenfranchisement would be for
16 your map?
17 A I don't recall the exact number. I know that the
18 goal was to make it substantially less.
19 Q And did you make it substantially less?
20 A I believe so, but again, without reviewing, I
21 don't know those exact numbers.
22 Q How would I find out what your delayed voting
23 number would be?
24 A If -- it may appear in -- you know, there may have
25 been a report that was run that was provided to

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1 the legislative staff people that would be in the
2 e-mails. I don't recall for sure that it was. If
3 it was not a number that's in the reports that are
4 there, the Autobound software has a process to
5 compare new districts to old districts, and then
6 once that's done, you need to look at, you know,
7 for each district, you know, the odds and the
8 evens, which people are impacted.
9 Q Is it possible using what you provided in your CD
10 that anyone with access to Autobound could figure
11 out the number that were --
12 A Absolutely.
13 Q You mentioned minimum population deviation. Did
14 you also address shifting of people for core
15 retention from one district to another?
16 A Yes.
17 Q And how many people did you move from one district
18 to another?
19 A I don't know the number off the top of my head.
20 Q Do you know if that information could be compiled
21 from your map?
22 A Yes, it could.
23 Q Did you have any involvement with former
24 Congressman David Obey?
25 MS. ARENDS: Objection.

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1 Q Regarding redistricting in 2011?
2 A He -- interaction, I would say no. Although, he
3 was -- he came for a hearing that I was at, that I
4 attended one day, and I believe I said hello to
5 him.
6 Q Did you ever receive any additional proposed maps
7 or redistricting data from Congressman Obey in
8 2011?
9 A No.
10 Q 2012?
11 A No.
12 Q Have you seen any maps since then that would have
13 been proposed by Congressman Obey?
14 A No.
15 Q How many times have you contacted the Government
16 Accountability Board in 2011 regarding
17 redistricting?
18 A Regarding redistricting?
19 Q Yes.
20 A I don't know that I have ever contacted them
21 regarding redistricting.
22 Q How many times have you contacted the Government
23 Accountability Board then in 2011?
24 A I -- I don't know exactly how many times. I -- by
25 the nature of my work doing a lot of political

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1 data work, I, you know, not infrequently contact
2 them to purchase or ask questions about voter
3 registration data, and I also regularly attend
4 their -- their, you know, roughly monthly board
5 meetings.
6 Q Okay. Have you requested census and other data
7 from the Government Accountability Board for the
8 2010 census?
9 A I don't believe Government Accountability keeps
10 census data.
11 Q Have you requested in or about October or November
12 data from the Government Accountability Board
13 regarding anything?
14 MS. ARENDS: Objection, this would
15 have to do with his work as a litigation
16 consultant. So I would instruct him not to
17 answer the question.
18 Q You're not going to answer whether or not you even
19 contacted the Government Accountability Board in
20 October or November of 2011?
21 MS. ARENDS: I mean, as we all know
22 from, based on Doug's letter, that yes, he
23 contacted the Government Accountability
24 Board. It was in relation to his work that
25 he did as a litigation consultant.

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1 MS. LAZAR: Okay, so --
 2 MR. KELLY: I think we need that
 3 testimony from Mr. Gratz.
 4 MR. EARLE: I think the objection
 5 is it falls outside the scope of Rule 26.
 6 MS. LAZAR: Well, the scope of
 7 Rule 26 allows me to ask Mr. Gratz if he did
 8 contact the Government Accountability Board
 9 in November of 2011 on behalf of his client.
 10 I'm not asking any more than that at this
 11 time. So are you still instructing him not
 12 to answer my question?
 13 MS. ARENDS: That information is
 14 not discoverable.
 15 MS. LAZAR: Whether or not he
 16 contacted the Government Accountability Board
 17 on your behalf is not discoverable?
 18 MS. ARENDS: I would say so, yes.
 19 MS. LAZAR: So you're instructing
 20 Mr. Gratz not to answer my question?
 21 MS. ARENDS: Yes.
 22 Q When you contact the Government Accountability
 23 Board, do you identify -- we'll just take the year
 24 of 2011. When you contact the Government
 25 Accountability Board, do you identify on whose

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1 behalf you are contacting them?
 2 A Not typically.
 3 Q And pursuant to letters from counsel in this case,
 4 there was a communication with the Government
 5 Accountability Board in November of 2011; is that
 6 correct?
 7 MS. ARENDS: Objection.
 8 MR. EARLE: I'm sorry, was that a
 9 question?
 10 MS. LAZAR: Yes, that was a
 11 question, Peter.
 12 MR. EARLE: Could you -- I didn't
 13 hear the last word of it. You made a
 14 declaration there was a letter, and then what
 15 did you ask?
 16 MS. LAZAR: *Is that correct.*
 17 MR. EARLE: You're asking for an
 18 affirmation of whether counsel sent a letter.
 19 MS. LAZAR: No. No, no, no, no,
 20 no, no. All right. Let's take a step back.
 21 What I said was *According to counsel's*
 22 *letter, there was a contact to the Government*
 23 *Accountability Board in November of 2011, is*
 24 *that correct?*
 25 MR. EARLE: You're asking him for

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1 his interpretation of that letter?
 2 MS. LAZAR: No. I said that there
 3 was a contact in November of 2011, and then
 4 there was an objection.
 5 MR. EARLE: You're making -- you
 6 got me -- I think we've got kind of like
 7 *Who's on first* situation here. Could you
 8 rephrase the question so I understand it?
 9 MS. LAZAR: Sure. I started with
 10 the foundation that there was a letter from
 11 counsel, Godfrey & Kahn, to our offices
 12 indicating that there was communication
 13 between Mr. Gratz and the Government
 14 Accountability Board in November of 2011.
 15 MR. EARLE: That's your
 16 representation to the deponent?
 17 MS. LAZAR: Yes.
 18 MR. EARLE: Now, I'm not there, so
 19 I don't have the benefit of seeing whether
 20 you've marked and shown him an exhibit that
 21 represents fact.
 22 MS. LAZAR: No exhibit.
 23 MS. ARENDS: There is no exhibit,
 24 which is why I objected because this assumes
 25 that he's aware of the letter, that he has

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1 seen the letter.
 2 MS. LAZAR: My question is whether
 3 or not Mr. Gratz contacted the accountability
 4 board in -- Government Accountability Board
 5 in November of 2011. That information would
 6 not be privileged information. Whether or
 7 not there is a contact is something that this
 8 witness can testify to. I have not asked him
 9 what he asked for, on whose behalf he did it,
 10 or whether he got the information. I've
 11 asked him whether he did contact the
 12 Government Accountability Board.
 13 MR. EARLE: At this point, my
 14 objection would be that you're becoming
 15 argumentative because counsel present in the
 16 room has instructed the witness not to answer
 17 that question based on the scope of Rule 26.
 18 You have a disagreement with counsel over on
 19 the scope of Rule 26. So I don't know that
 20 there's much profit at this point in arguing
 21 about that.
 22 MS. LAZAR: Well, my question then
 23 is are you instructing him not to answer that
 24 question?
 25 MS. ARENDS: Yes.

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1 Q And are you going to follow the advice of counsel?
2 A I will, yes.
3 Q Before you were retained in the summer of 2011 by
4 Godfrey & Kahn, did you contact the Government
5 Accountability Board with respect to any
6 information in 2011?
7 A Any information?
8 Q Any information, any contacts with the Government
9 Accountability Board before you were retained?
10 A I would have to -- I don't know for certain. As I
11 say, I have periodic contact with them and attend
12 their monthly meetings.
13 MS. LAZAR: I'd like to take a
14 short break, and then we may almost be over
15 unless your counsel has more questions. So
16 Peter, we're going to go off the record, but
17 I would suggest you just stay on the phone.
18 MR. EARLE: Okay.
19 THE VIDEOGRAPHER: The time is
20 10:05. We are going off the record.
21 (Recess taken)
22 THE VIDEOGRAPHER: The time is
23 11:51. We are back on the record.
24 MS. LAZAR: Thank you, Mr. Gratz.
25 We took a short break there to take care of

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1 some other litigation business. Before -- or
2 during that break, I was advised by your
3 counsel that they were going to be removing
4 the opposition to the one question I had
5 asked. And I'd ask the court reporter to
6 look up that one question so it's read back
7 to you, so I can't change it. If you can
8 read that question back, please.
9 (Question read)
10 A Yes.
11 Q And that was in November of 2011, correct?
12 A To the best of my recollection.
13 Q Okay. I just have a few more general questions
14 that I'm going to ask you, and then Mr. Kelly is
15 going to ask you a few questions about the CD,
16 which was marked as Exhibit 1027, and we also have
17 put that in the computer so you can look at those.
18 We also have some printouts. First of all, when
19 reading some of the e-mails, I noticed the name of
20 a study group called the Redistricting Study
21 Working Group. What is that group?
22 A It is a -- and actually, I may have misstated. I
23 thought the name was Redistricting Staff Working
24 Group, but whichever case. It is a committee that
25 consists of both designees of the legislative

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1 leadership in each house as well as some of the
2 legislative support staff to discuss kind of
3 preparatory procedures for the redistricting
4 process. So they work to discuss what kinds of
5 computer technology will be necessary, what it
6 will take to physically draft the redistricting
7 legislation when it becomes time, what sorts, if
8 any, public access there will be to the
9 redistricting process and that kind of thing. And
10 it's -- I don't believe they have any formal
11 authority. They kind of make recommendations and
12 then the legislature within their more formal
13 structure would actually approve anything.
14 Q And is that a bipartisan group?
15 A Yes.
16 Q In some of the other e-mails I saw some mentions
17 of an AFSCME committee conference call or meeting;
18 did you attend any of those regarding
19 redistricting in 2011?
20 A I don't recall that call specifically. I guess I
21 would have to see what the e-mails were to respond
22 to that.
23 Q Do you recall attending any with that group in
24 2011 regarding redistricting?
25 A In 2011, I don't recall specifically.

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1 Q How about any meetings with the Democratic Party
2 Wisconsin in 2011 regarding redistricting?
3 A I recall attending at least one meeting with the
4 Democratic Party regarding redistricting.
5 Q And approximately, if you know, when was that?
6 A I -- it was prior to the introduction of any
7 redistricting bills is all I can say specifically.
8 Q And who, if you recall, who was at that meeting?
9 A I won't recall every participant who was there.
10 It was leadership from the Democratic Party, so it
11 would have been Chairman Mike Tate as well as some
12 of their other staff people. There were
13 representatives from legislative leadership there.
14 You know, both Representative Barca's staff of
15 some sort, Representative Miller's staff, and
16 beyond that, I could not say. You know, I don't
17 have a recollection beyond that for sure.
18 Q And if you recall, what was the topic of that
19 meeting?
20 A The topic, there were a number of topics, but I
21 think we talked about redistricting timeline and
22 process. I think I spoke about what kind of
23 typically when redistricting bills are introduced,
24 when the census data is available, you know, kind
25 of overview of the process, and then there was

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1 discussion of, you know, how and when they should
2 consider, you know, engaging in any kind of legal
3 counsel.
4 Q Was there any -- strike that. You mentioned that
5 you discussed certain things. Did you give a
6 slight presentation as to timeline and procedure?
7 A I believe I gave -- I did not give a PowerPoint or
8 that kind of presentation. There may have been a
9 handout that would have just kind of had timeline
10 and dates. This is the date when census data is
11 available. This is the date when municipalities
12 have to have their wards created and those types
13 of -- that type of timeline.
14 Q And was there any discussion, if you can recall,
15 at that meeting where the introduction of maps on
16 behalf of the democrats was discussed?
17 A Where actual maps were discussed or whether there
18 should be maps?
19 Q Let's take both of those. Where actual maps were
20 discussed?
21 A There was no discussion of actual maps. There
22 were neither actual maps nor really discussion of
23 what maps should look like.
24 Q Was there any discussion in general as to whether
25 a map for the democrats should be introduced?

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1 A I don't recall for certain whether there was or
2 not.
3 Q Okay. Do you know who Erik Nordheim is?
4 A Yes, I do.
5 Q Professor Erik Nordheim is one of the experts in
6 this case on behalf of the congressional
7 democrats; is that correct?
8 A That is my understanding.
9 Q Professor Nordheim has been retained by the
10 intervenor congressional democrats; is that
11 correct?
12 A That is my understanding.
13 Q Did you participate in and/or meet with
14 Professor Nordheim to assist in the preparation of
15 his expert report?
16 A I have met with him, yes.
17 Q And when did you meet with him?
18 A I don't have specific dates. I met with him on a
19 number of occasions. My -- on a number of
20 occasions over the last month or so.
21 Q I don't have the exhibit, but I can tell you that
22 one of Professor Nordheim's exhibits is an invoice
23 which has certain dates listed, December 7th,
24 December 9th through the 14th, and he indicates
25 that he met with you on those dates; would that,

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1 that's 2011, would that refresh your recollection?
2 A That would seem reasonable.
3 Q And what did you discuss with Professor Nordheim
4 on those dates?
5 A He would have asked me for some -- you know, to
6 utilize the redistricting software I would have
7 and the map files to produce at his request some
8 numbers that looked at some of the redistricting
9 stats.
10 Q For Professor Nordheim's report, did you use
11 Autobound to come up with some figures and tables
12 for him?
13 A Yes, I did.
14 Q Did you see -- have you ever seen
15 Professor Nordheim's expert report dated
16 December 13th, 2011?
17 A I believe so. I don't think I've read his report
18 in its entirety.
19 Q Did you see that before it was submitted or after?
20 A I only saw it after.
21 Q Did you draft any portions of Professor Nordheim's
22 report?
23 A I did not.

MS. LAZAR: Those are all of my
questions. Mr. Kelly is going to ask you

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1 some questions now regarding the --
2 MR. EARLE: I didn't hear what his
3 response was.
4 MS. LAZAR: To the question whether
5 he drafted the report?
6 MR. EARLE: I heard your question.
7 The answer seemed to block out.
8 THE WITNESS: I did not draft his
9 report or any portion of it.
10 MS. LAZAR: That's the answer I
11 heard. Thank you. Now I'm going to have
12 Mr. Kelly ask some questions regarding the
13 document. And for the record, the CD that
14 you produced as Exhibit 1027 has now been
15 loaded into a computer, and you have access
16 to that CD; is that correct?
17 THE WITNESS: That is correct.
18 MS. LAZAR: Mr. Kelly?
19 MR. KELLY: I have a handful of
20 exhibits that I'm just going to pass around
21 all of them to you now so we don't have to
22 go --
23 MS. LAZAR: How do you want these
24 marked, individually?
25 MR. KELLY: Individually, yeah.

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1 MR. EARLE: By the way, Dan, thanks
2 for the e-mail. I got all three.
3 MR. KELLY: Good, good. Excellent.
4 MS. LAZAR: Okay. We're going to
5 mark these five in this order, and we'll take
6 a second to do that.
7 (Exhibit Nos. 1028 through 1031 marked
8 for identification)
9 MR. KELLY: Wendy, are you good
10 with the exhibit numbers?
11 MS. ARENDS: Yes.
12
13 EXAMINATION
14 By Mr. Kelly:
15 Q Mr. Gratz, could you take a look at what has been
16 marked Exhibit 1028, I believe it's in front of
17 you, and tell me what that is.
18 A This is a printout of a PowerPoint that describes
19 the redistricting process in Wisconsin, or you
20 know, mostly in Wisconsin. This would be a
21 presentation that I've given a number of times
22 over the years.
23 Q How many -- did you make any presentation with
24 this document in 2011?
25 A I could not tell you exactly when I would have

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1 given presentations. I've used this or a version
2 of this presentation a number of times, probably
3 going back to two years or more.
4 Q And what kind of organizations would you make this
5 presentation to?
6 A I would have at different times made this to
7 legislators. I would have made it to nonprofit
8 groups that might be interested in redistricting
9 or in the census process. There were probably
10 portions of this that may have been part of the
11 presentation I gave to the lobbyists. It would
12 have, you know, been both legislators and interest
13 groups at different times.
14 Q And what lobbyists would those have been?
15 A That would have been the lobbyist association
16 meeting that I was -- well, both the lobbyist
17 association meeting that we talked about earlier,
18 as well as, I believe, a year to year and a half
19 ago, I gave a presentation that kind of talked
20 about the process more than the map outcome.
21 Q The meeting with the lobbyist or the presentation
22 to the lobbyist that we talked about earlier, was
23 that the one in August of 2011?
24 A There would have been one in August of 2011, and I
25 believe there was one in August 2010. Well, there

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1 was one in the previous year that was on the
2 upcoming redistricting process.
3 Q You mentioned that you used this presentation or
4 versions of it several times. Is this -- would
5 this be the actual version that you presented to
6 the Wisconsin Association of Lobbyists?
7 A Looking at this one, I think this is different
8 than the one I gave -- because this one appears to
9 be one before there were districts introduced. I
10 believe the one that I gave to the more recent,
11 the 2011 lobbyists association, probably included
12 some map images of the Act 43 districts.
13 Q Do you have a copy of that file, the one that you
14 actually presented to the Wisconsin Association of
15 Lobbyists in 2011?
16 A I believe it was on the CD. I would have to look
17 through the document.
18 Q Yeah, if you want to take a moment and see if you
19 can find it on there, that would be great.
20 A Okay. I see now actually what I had was not a
21 PowerPoint at that time. There's a folder that's
22 called *Discovery Reply* and then another folder
23 within that called *WAL Presentation Maps*. That
24 appears to be the maps that I would have shown at
25 that time. So it may not have been that I put it

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1 into a PowerPoint form.
2 Q Do you -- do you think you would have used
3 Exhibit 1028 as part of that presentation along
4 with the maps?
5 A I can't recall for certain.
6 Q All right. Let's talk about maps in that WAL
7 presentation maps folder.
8 MS. ARENDS: Sorry, we're just
9 having a little bit of a delay here.
10 A Okay.
11 Q Are these subparts of the maps passed by Act 43?
12 A Just a moment while it opens it up here.
13 Q Sure. Is it working for you? Did we give you a
14 dreadfully slow computer?
15 A The computer seems to be slow. It's making noise,
16 but we just have the hourglass.
17 MS. ARENDS: It says it's not
18 responding at this point.
19 MR. KELLY: Well, that's helpful.
20 MS. ARENDS: Is there an
21 alternative way to do this?
22 MR. KELLY: Still doing nothing?
23 MS. ARENDS: Yeah, we're having
24 trouble here.
25 MR. KELLY: Let me come over there

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1 and see if I can bring some discipline to the
2 process. Just my luck I give you a defective
3 computer.
4 MS. ARENDS: Maria, do you want to
5 go off the record while we solve this?
6 THE VIDEOGRAPHER: The time is
7 12:12. We are going off the record.
8 (Recess taken)
9 THE VIDEOGRAPHER: The time is
10 12:20. We are back on the record.
11 Q All right. Mr. Gratz, we were talking about a
12 presentation that you made to the Wisconsin
13 Association of Lobbyists, and you mentioned that
14 there were some maps that were included in that
15 presentation, and you directed us to the CD and a
16 folder marked W -- something like WAL presentation
17 maps; is that correct?
18 A Correct.
19 Q So do you see that folder and its contents on the
20 computer screen in front of you?
21 A I do, yes.
22 Q Can you tell me, looking at that, now you clicked
23 on a map, which map file is that?
24 A I have open a map file that's Fox Valley Assembly.
25 Q All right. Tell me what that is.

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1 A This is a map of roughly the Fox Valley area,
2 Green Bay to Appleton, and the surrounding area
3 that shows the Assembly districts in what
4 eventually became Act 43.
5 Q So this file was prepared before Act 43 was
6 passed?
7 A This was -- actually, I believe this was prepared
8 after it was actually Act 43, or at least after it
9 was passed by the legislature.
10 Q All right. Could you go back to the folder list,
11 the file list there.
12 A Uh-huh.
13 Q And tell me, just in general terms, what each of
14 those other files represents?
15 A So there are two Fox Valley files, one for the
16 Assembly, which I just described, a similar one
17 that appears for the State Senate. There is a map
18 that's named Milwaukee, Waukesha Assembly, which I
19 presume will be the Milwaukee and surrounding
20 areas, the Assembly districts. There are two
21 files called Racine, Kenosha, Assembly and Senate,
22 which would be that region of the state, and those
23 districts from Act 43, and then there are two
24 files, South Central Dane Assembly and Senate,
25 which would be that region.

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1 Q Does that collection of maps cover the entire
2 state?
3 A No, it just covers those specific regions.
4 There's no state-wide map here.
5 Q Were you the one who selected what regions to --
6 to present at the Wisconsin Association of
7 Lobbyists meeting?
8 A Yes, I would have.
9 Q Why did you choose those?
10 A I think I chose these for different reasons. I
11 knew that these are, first and foremost, the most
12 populous parts of the state. So I wanted the
13 lobbyists to be able to, you know, get a good
14 overview of those parts of the maps that
15 represented the most people. And then in a few of
16 the cases, I highlighted, you know, specific
17 things within those maps that -- that might be of
18 interest to them.
19 Q And what kind of things do you recall having
20 highlighted for them?
21 A Well, the one thing that stands out in my mind
22 most significantly is in the Racine, Kenosha
23 files. The fact that the way the maps were drawn
24 had the effect of disenfranchising a very large
25 number of people.

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1 Q Why would the Wisconsin Association of Lobbyists
2 be interested in that?
3 A I think they were just generally interested in
4 what the redistricting maps looked like and what
5 impact they had on people across Wisconsin and in
6 their job as political professionals.
7 Q You mentioned that you selected the regions to
8 present to them based on the population, the fact
9 that these were the most populous areas; is that
10 correct?
11 A That's correct.
12 Q Why would the lobbyists be interested in the most
13 populated areas?
14 A Well, I think lobbyists are, you know, usually
15 interested in what, you know, political
16 implications there will be from the redistricting
17 maps, how it affects, you know, who may -- you
18 know, who may be the representatives who they
19 continue to lobby or don't continue to lobby. And
20 so by showing the greatest number of districts, it
21 gives them the biggest overview of that aspect.
22 Q Was part of the purpose of your presentation to
23 help them understand who may or may not be in the
24 legislature in the following year so they would
25 know who to lobby?

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1 A Yes, I would say so.
 2 Q And did you help them understand who may or may
 3 not be in the legislature in future years?
 4 A I would hope so. I don't know what effect it had
 5 in the end, though.
 6 Q Can you tell me how you helped them understand who
 7 may or may not be in the legislature in future
 8 years?
 9 A Well, another aspect of the maps that I would have
 10 talked about, when I just had the Fox Valley map
 11 open, one of the things that the map shows is
 12 which incumbents now reside within the same
 13 district. So I would have talked about that these
 14 incumbent representatives are now paired, and
 15 we'll either have to -- one or the other of them
 16 will no longer be able to continue unless they
 17 relocate to another district. So that would have
 18 been one aspect. I would have talked about kind
 19 of the politics of the area and how the maps may
 20 have impacted representatives or a challenger of
 21 another party's ability to be successful in a
 22 campaign.
 23 Q Did you provide any overall sense of what the
 24 partisan balance of the legislature might be in
 25 continuing years after adoption of these maps?

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1 A I believe so, yes.
 2 Q What did you tell them?
 3 A I -- well, I believe what I told them to the best
 4 of my recollection is that, you know, this was a
 5 map that, you know, was going to be more difficult
 6 for democrats to be elected under, but did not
 7 leave them without opportunities for election.
 8 Q And what did you mean by it would not leave them
 9 without opportunities for election?
 10 A Well, I probably highlighted that there are some
 11 districts that were -- you know, did become very
 12 democratic. There's a -- both in Green Bay and in
 13 Eau Claire, there would have been districts that
 14 were now tremendously or much more democratic than
 15 they were in the past. But would have also
 16 highlighted the trade-off that often those were
 17 created at the expense of the ability for
 18 democrats to be successful in several other
 19 districts.
 20 Q Was it your understanding that the democrats under
 21 these new maps would still be able to participate
 22 in the legislative process in ongoing years?
 23 MS. ARENDS: Objection to the form
 24 of that question.
 25 A I'm a little unclear about unable to participate

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1 in the legislative process.
 2 Q Sure. Let me try that again. Given the analysis
 3 of what you presented to the Wisconsin Association
 4 of Lobbyists, did you conclude that democratic
 5 lawmakers would have an opportunity to participate
 6 in the legislative process after adoption of this
 7 map?
 8 A I guess I have trouble knowing what *participate in*
 9 *the legislative process* means. Yeah, I have
 10 trouble synthesizing what you want to ask by that.
 11 Q Let's break that down a little bit. They have an
 12 opportunity to be elected?
 13 A In some places, correct.
 14 Q And once elected, they would have the ability to
 15 propose legislation?
 16 A I presume so.
 17 Q Participate in debates?
 18 MS. ARENDS: Objection, this calls
 19 for speculation.
 20 A I believe legislators, as far as I know, are
 21 allowed to participate in debates.
 22 Q Is there anything about Act 43, after your
 23 analysis, that suggests that the democrats would
 24 not have a fair ability to participate in the
 25 legislative process?

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1 A Well, I would say that, you know, the most
 2 effective way to participate in the legislative
 3 process is, you know, the ability to get your
 4 bills passed or get them to -- you know, at least
 5 get them to a floor debate, and a map that
 6 disadvantages them tremendously so they were in a
 7 small minority makes that more difficult.
 8 Q Do you think the Wisconsin Association of
 9 Lobbyists is interested in the partisan makeup of
 10 the legislature?
 11 A I don't know that I have an answer to that.
 12 Q Did you make your presentation to the Wisconsin
 13 Association of Lobbyists with the purpose or
 14 intent of demonstrating what the partisan makeup
 15 of the legislature might be under these maps?
 16 A I feel like I mainly talked to them about, you
 17 know, what the impact was. I don't know that I
 18 speculated on what the complete partisan makeup
 19 would be, but that, you know, zeroed in on some
 20 specific areas and the impact it would have,
 21 legislators being paired, some districts being
 22 made better for one party or the other and vice
 23 versa.
 24 Q The presentation that you made to the Wisconsin
 25 Association of Lobbyists, that was drafted

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1 entirely by you?

2 A Yes.

3 Q And as you mentioned, this is a presentation that

4 you've used over the years; is that right?

5 A These maps that we're speaking of here would have

6 just -- I believe that these maps were ones that I

7 created and used only for the preparation to them.

8 Q Okay. But the PowerPoint is something that you

9 have used over the years?

10 A Correct, the PowerPoint on the process of

11 redistricting.

12 Q Whose idea was it to create that PowerPoint

13 presentation?

14 A Well, I was invited to speak at the -- the

15 Lobbyists Association meeting. I believe they,

16 whoever invited me, said we'd like to see some

17 maps of some different regions and what the impact

18 is. So that request came from them, and then I,

19 you know, decided, you know, the details of

20 what I was going to provide. You know, the other

21 part of the presentation was given by

22 Representative Handrick, and I would have also

23 commented on some of the presentation materials he

24 would have presented.

25 Q Do you know why they asked both you and

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1 Mr. Handrick to make presentations to them?

2 A I, you know, I don't know for sure what their

3 motive would be.

4 Q As you did the presentation, did you notice any

5 dissimilarity in the way that you approached the

6 topic that you were presenting on between you and

7 Mr. Handrick?

8 A I think that, you know, Mr. Handrick presented,

9 you know, a viewpoint different than mine in terms

10 of suggesting, you know, the fairness and

11 appropriateness of the outcome of the maps.

12 Q And what was the emphasis of your presentation?

13 A I think I talked about, as we mentioned before,

14 some things like that Racine and Kenosha, how the

15 map was drawn, disenfranchised a number of people.

16 Q Are you at all concerned about the way the map was

17 written?

18 MS. ARENDS: Objection.

19 A I -- outside of my personal opinion, I don't think

20 I've, you know, been asked to talk about its

21 fairness.

22 Q So you don't have any opinion or position with

23 respect to the -- whether the maps were slanted in

24 a partisan way, one direction or another?

25 MS. ARENDS: Objection.

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1 A You know, a personal opinion would be that the

2 maps are decidedly partisan.

3 Q And why did you conclude that they are decidedly

4 partisan?

5 A A variety of factors. But again, going back to

6 something like the disenfranchisement that

7 happened in Racine and Kenosha and what appears to

8 have been for a significant partisan reason.

9 Q What do you think that significant partisan reason

10 was for the Racine and Kenosha portion of the map?

11 MS. ARENDS: Objection, calls for

12 speculation.

13 A You know, my personal opinion is that looking at

14 it, it takes two Senate districts that would

15 otherwise -- you know, each party have a chance of

16 representing one or the other or both of those

17 Senate districts and makes that impossible.

18 Q How did it make it impossible?

19 A It makes one district tremendously republican and

20 one district tremendously democratic.

21 Q Is there any benefit to you or any of your

22 business interests in making these types of

23 presentations to the Wisconsin Association of

24 Lobbyists?

25 A I think the main benefit for my appearing there

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1 was that from time to time I'm, you know, hired by

2 lobbyists to conduct surveys or public opinion

3 research, and it's, you know, a good opportunity

4 just to, you know, network and connect with the

5 folks there.

6 Q Is there about the presentation that you did that

7 would make it either more or less likely that you

8 would be retained about any of the lobbyists?

9 A I don't know that there's anything about these

10 maps or the presentation, no. I think, you know,

11 the ability to work with them is mainly an

12 opportunity to, you know, present to them, talk to

13 them, and you know, gain credibility with them, I

14 would say.

15 Q After you were finished with the presentation, did

16 you have an opportunity to talk with any of the

17 attendees?

18 A I believe so. I don't remember specifics of that,

19 but we certainly talked after I was done.

20 Q Do you recall any of the topics of conversation

21 that you had with them?

22 A Not specifically, no.

23 Q Do you remember anyone in particular with whom you

24 might have talked after that presentation?

25 A I, you know, talked to a number of them, but you

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1 know, I have people who are friends who are
 2 lobbyists, I probably would have talked to more,
 3 you know, just because of a social nature, I would
 4 have talked to not really about these things, but
 5 life in general. But I don't, you know, I don't
 6 really call it, you know, any kind of
 7 comprehensive list of who I talked to.
 8 Q Let's go back to Exhibit 1028 for a moment.
 9 Mr. Gratz, I might have missed this this morning,
 10 and I apologize if I did. What is your background
 11 in redistricting?
 12 A My -- well, my formal involvement in redistricting
 13 began with the census and redistricting process
 14 during the 2000 and subsequent years when I
 15 actually drew maps for the Senate democrats that
 16 were passed by the State -- State Senate at that
 17 time and analysis I would have provided for
 18 litigation at that time. Actually, my interest
 19 goes back to the 1990s while I was in college, and
 20 I worked quite a bit with the public access
 21 terminals at that time where the public could work
 22 on redistricting maps. That was kind of my first
 23 time familiarizing myself with the software and
 24 technology and background of redistricting.
 25 Q Now, you mentioned that the material in

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1 Exhibit 1028 is something that you have used over
 2 the years. Do you recall when you would have
 3 first compiled this information into a
 4 presentation?
 5 A I would not recall specifically, no.
 6 Q Would this have been -- do you know if it would
 7 have been before or after the 2000 census?
 8 A It would have been -- this would something I would
 9 have prepared well after the 2000 census.
 10 Q Would it have been before or after the Senate was
 11 considering a redistricting map in 2001 or 2002?
 12 A It would have been well after that.
 13 Q And by *well after that*, would we say mid decade
 14 2005?
 15 A I mean, I would say this was something I probably
 16 first began -- prepared somewhere in the, you
 17 know, last three years of the -- of the decade,
 18 you know. Broadly 2007 too 2009 would have been
 19 when I probably first created a version of this
 20 document.
 21 Q Okay. Did you have any assistance in gathering
 22 the material that went into Exhibit 1028?
 23 A Direct assistance? Direct assistance, I would say
 24 no. I certainly have attended conferences and
 25 other presentations on redistricting over the

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1 years that would have, you know, provided me
 2 information that would have gone into this.
 3 Q Let's turn to the second to last page, and if you
 4 take a look at that page and the one that follows?
 5 A Just to confirm the page, the first one says race
 6 and redistricting, and the second one says
 7 redistricting principles and criteria?
 8 Q Correct. Where would you have gotten the material
 9 for those two pages?
 10 A I couldn't recall specifically. It may have -- it
 11 probably most likely came from materials I would
 12 have received at conferences on redistricting by
 13 the National Conference of State Legislatures.
 14 Q All right. Let's go back to the computer, and if
 15 you would just hit a key anywhere, that should
 16 bring it back up or not actually.
 17 MR. KELLY: Let's go off the record
 18 for just a moment so I can resurrect the
 19 computer.
 20 THE VIDEOGRAPHER: The time is
 21 12:40. We are going off the record.
 22 (Recess taken)
 23 THE VIDEOGRAPHER: The time is
 24 12:43. We are back on the record.
 25 Q Mr. Gratz, could you take what has been marked

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1 Exhibit 1029 from the documents that are in front
 2 of you. Can you tell me what that is?
 3 A This was a memo that I wrote to representative
 4 Peter Barca describing, you know, how to proceed
 5 on, you know, in regards to redistricting
 6 legislation now that they were not in the
 7 majority, and the democrats were not in the
 8 majority in the State Assembly.
 9 Q Who asked to you prepare that memo?
 10 A I don't know that I was asked specifically. It
 11 would have come out of conversations I would have
 12 had with his staff and perhaps other legislative
 13 members. I don't recall.
 14 Q Out of those conversations, do you recall what the
 15 specific purpose or the specific request was to
 16 you that resulted in this memo?
 17 A Could you say that again, please?
 18 Q Sure. Out of those conversations, whoever they
 19 were with, do you recall what the particular
 20 request they made of you that resulted in this
 21 memo, which is Exhibit 1029?
 22 A I don't know that that -- as I say, I'm not sure
 23 that a specific request was made of me. I think
 24 we had probably had some discussions, and you
 25 know, whether it was asked of me specifically or I

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1 thought it would be helpful for them to have a few
2 notes on, you know, how to proceed with
3 redistricting as a minority.

4 Q Were you retained by anyone in the legislature to
5 provide consulting services?

6 A I was not, no.

7 Q Down on the bottom of the memo, there's a heading
8 *Funding Resources*. Can you tell me what the point
9 of the funding resources section of the memo was?

10 A The purpose here was to discuss in past
11 redistrictings the legislature would have
12 allocated funds themselves for, you know, legal or
13 other resources for redistricting. But with
14 the -- but with both party -- both houses, the
15 democrats being in the minority, that did not seem
16 that would likely be the case. And so this was
17 laying out for them, you know, where else they may
18 be able to go to pay for some of the work they
19 would need to, you know, either advocate for their
20 own plan or follow -- challenge any plan that was
21 passed.

22 Q Do you know if they pursued any of these funding
23 options?

24 A I do not know specifically if any of these were
25 followed, no.

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1 Q Did you have any discussions with Mr. Barca about
2 this memorandum or the topics in this memorandum
3 after you provided it to him?

4 A I don't recall talking to him specifically about
5 this memo, no.

6 Q My colleague and I noted that the date on this --
7 it must have had a date field in the file, so it
8 printed today's date?

9 A Yeah. I think my template for memos has an auto
10 date field on it.

11 Q All right. Would the actual date of this memo be
12 the date of the file on the CD from which this was
13 taken?

14 A I would have to look at that file to know for
15 sure. Yeah, I would have to look at the file to
16 know for sure.

17 Q Why don't you go ahead and take a look and see if
18 you can find that?

19 A It appears from how I named the file, which is
20 *Memo to Barca, 1/5/2010*, that that was at least
21 the date I first would have worked on this.

22 Q Let's turn now to Exhibit 1030, and would you look
23 at that, and tell me what that is.

24 A This was -- I would say this -- I would
25 characterize this as two pieces. The bottom part

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1 is -- that starts process, and the remainder of
2 the page outlines kind of discussion topics for a
3 meeting with legislative leaders. Judging by the
4 attendees listed at the top, these -- this would
5 have been a meeting that took place sometime in
6 2010 when Mike Sheridan was still the speaker. So
7 it was discussion points for a meeting I would
8 have had with them on how we should prepare for
9 redistricting in the future legislative section.

10 And then the attendees portion at the top would
11 have been notes to myself just on which
12 legislators at least were present at that meeting
13 and what years they had served in the legislature.

14 Q All right. So this document is something that you
15 prepared?

16 A Yes.

17 Q Do you recall who requested this meeting?

18 A It would have been a meeting that I would have --
19 you know, Speaker Sheridan's office would have
20 requested it. It would have come out of
21 conversations I would have had with them at some
22 point in 2010 about the need to prepare for the
23 redistricting process.

24 Q Were they looking to you to provide some guidance
25 to them on how to prepare for the redistricting

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1 process?

2 A Yes. We had had discussions based upon the fact
3 that I had, you know, was the one who had the most
4 experience in the legislature working on
5 redistricting in the past.

6 Q And did you provide them direction and counsel on
7 the redistricting process?

8 A We would have talked about the -- I would say yes,
9 we would have talked about the items on here, the
10 timeline, and you know, what's necessary to create
11 a redistricting plan.

12 Q And you mentioned that this would have been
13 sometime in 2010; is that right?

14 A Given that Speaker Sheridan is listed on here,
15 yes, that would be correct.

16 Q Did you continue providing input, advice, and
17 consultation to the democrat members of the
18 legislature subsequent to this about the
19 redistricting process?

20 A I talked to either them or their staff a few times
21 during 2010.

22 Q Can you tell me about the content of those
23 conversations?

24 A It would have been follow -- I would attended some
25 of these redistricting staff working group

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1 meetings. I would have communicated to them about
2 those meetings, what was being done to prepare the
3 technology for the whole legislature. We would
4 have also talked about how they wanted to proceed
5 in terms of perhaps hiring counsel for the
6 redistricting process.

7 Q Did there come a point in time when your
8 consultation with the democrat members of the
9 legislature ceased?

10 A I would not say it ceased. It continued into
11 early 2011, but different members given the
12 leadership in the -- among the Assembly democrats.

13 Q And with whom were you conversing in 2011 about
14 redistricting matters in the legislature?

15 A It would have shifted from Speaker Sheridan's
16 office to Minority Leader Barca's office.

17 Q What kind of conversations did you have with his
18 office about redistricting?

19 A In the -- the early part of the year, I think we
20 probably talked somewhat about what was in that
21 other memo to Representative Barca. And then once
22 the plans were introduced in the legislature, they
23 would have asked me for some information on, you
24 know, what those plans looked like and what they
25 did.

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1 Q And did you provide that kind of information?

2 A I did at some times, yes.

3 Q Was that in writing, or was that verbal?

4 A It would have been both.

5 Q And the written input that you gave to them on
6 redistricting, is that included on the CD?

7 A I would say the written input would mainly be the
8 items that we discussed earlier, some of the
9 Excel-type charts and tables, which indicated
10 which members were paired, what the core retention
11 of the districts was, what the demographics of the
12 district were.

13 Q Do you know what the legislators did with the
14 information you gave them?

15 A I do not, no.

16 Q Do you know if they made any effort to draw any
17 redistricting maps themselves?

18 A Other than the map that we talked about earlier,
19 which I worked on the one weekend. The only other
20 effort I know of is that Representative Kessler
21 worked on the map.

22 Q Did you assist Mr. Kessler with that map?

23 A I did not, no.

24 Q Do you know about the contents of the map that
25 Mr. Kessler was working on?

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1 A I looked at it. I couldn't characterize it much
2 beyond that.

3 Q How did you come to obtain a copy of the map
4 Mr. Kessler was working on?

5 A At some point, he agreed to share it with me, and
6 I probably went to his office and made a copy of
7 it to load onto the computer that was in the
8 Senate conference room.

9 Q Was it your idea to look at the map, or did
10 Mr. Kessler ask you to look at the map?

11 A I don't recall that exactly.

12 Q What was your purpose in looking at the map?

13 A I believe that the legislators, whether it was
14 leadership in the Assembly or the Senate, you
15 know, were curious as to how it compared to the
16 plan that was introduced. I think that's the main
17 thing, how it compared.

18 Q Did the legislators ask you to compare the maps
19 introduced by the republicans to the maps
20 developed by the democrats?

21 MS. ARENDS: Objection to form,
22 which legislators are we talking about here?

23 MR. KELLY: Any.

24 A I guess I'm confused. You say plan prepared by
25 the legislators. Can you be more specific which

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1 plans are being compared?

2 Q Sure, yeah. There were maps introduced that
3 eventually became Act 43, correct?

4 A Correct.

5 Q And there were maps that you had looked at or
6 worked on that the democratic members of the
7 legislature were assembling, correct?

8 A There was the map I had worked on, and then there
9 was the map that Representative Kessler worked on.

10 Q Let's talk about the map that you worked on. You
11 shared that with the legislators? I'm sorry. You
12 shared that map with the democratic legislators?

13 A I would have shared it with the staff people of
14 the democratic leadership.

15 Q Did you share it with anyone else?

16 A Not that I can recall.

17 Q What was the purpose of you sharing it with the
18 staff members for the democratic members of the
19 legislature?

20 A The purpose would have been to show 'em -- show
21 them what progress we had made on the map and for
22 them to make a determination whether they, you
23 know, wanted to do anything with the map, I guess.

24 Q And when you say the progress that we made on the
25 map, are you referring to Forward Strategies or

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1 someone else?

2 A As I mentioned earlier, Mike White worked on the

3 map a little bit as well. So it would have been,

4 you know, progress that Mike and I had made.

5 Q Do you know if the democratic legislators did

6 anything with the maps that you were working on?

7 A I don't know -- I don't know if they did anything

8 more with them after that. As I say, the maps

9 were I would not term complete.

10 Q Did any of the democratic legislators ever ask you

11 to compare the maps that became Act 43 to the map

12 that you were working on?

13 A I don't recall for certain.

14 Q Did any of the democratic legislators ask you for

15 assistance in creating any other map?

16 A No.

17 Q Are you aware of any other maps that the

18 democratic legislators were working on?

19 A Outside of Representative Kessler's map, no.

20 Q Let's turn to Exhibit 1031. Can you take a look

21 at that, and tell me what that is, please?

22 A This is a memo that I wrote to Scott Adrian at

23 the time who would have been on the staff of

24 Speaker Mike Sheridan that discusses whether

25 legislative districts could be drawn on census

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1 blocks versus wards.

2 Q And again, the date on here is today's date

3 because that's when we printed it off. Could you

4 take a look at the CD and determine, if you can,

5 identify the date this was actually written?

6 A The date that the CD has as last modified is

7 2/26/2010. So as near as I can tell, that would

8 be the last date that I would have worked on it.

9 I probably have only worked on it a time or two.

10 Q Okay. What was the point of this Exhibit 1031?

11 A The -- the point of it was, I believe, two-fold.

12 At one of the redistricting staff working groups,

13 there was a draft of a potential bill that was

14 actually brought forward, I believe, by one of the

15 nonpartisan legislative reference bureau staff

16 people that made some changes to the current law

17 that would allow census blocks to be used instead

18 of ward boundaries for legislative and

19 congressional maps. And then I, you know, talked

20 about some of the implications of this, and I

21 think, you know, advantages and disadvantages.

22 Q Who asked you to prepare this memorandum?

23 A Again, I don't know that I was asked specifically

24 to prepare it. The idea was that I had been

25 communicating with Representative Sheridan's

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1 staff, Scott Adrian. And particularly, since this

2 was a topic that had come out of the staff working

3 group, I thought it was important to, you know,

4 share the information with him.

5 Q And did you eventually share this memorandum with

6 Mr. Adrian?

7 A I don't know for certain.

8 Q Now, it is stamped *Draft Confidential*. Why would

9 this have been confidential?

10 A I think that, you know, I would term it as a --

11 you know, as you often do when you're, you know,

12 discussing potential legislation, you may keep it

13 confidential in the early stages before you've

14 actually drafted anything.

15 Q Did you come to any conclusions about the topic of

16 drawing district -- legislative district maps

17 based on census blocks rather than wards?

18 A Come to any conclusion; I guess you would have to

19 clarify what you're asking exactly.

20 Q Sure. In considering the question of basing

21 legislative district maps on census blocks as

22 opposed to wards, did you see any -- anything that

23 would keep that from being a valid way of

24 developing --

25 A I don't know that I talked here or thought about

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1 whether it would be a valid way. You know, I

2 discussed the impact on the timeline of when work

3 could be done.

4 Q Do you know of anything that would prevent the

5 legislature from being able to develop a

6 legislative district map based on census blocks as

7 opposed to wards?

8 MS. ARENDS: Objection, outside the

9 scope.

10 A The only -- what I know is that certainly at the

11 time I wrote this memo, it was -- it was not the

12 process.

13 Q And in this memo, you note some advantages to

14 basing legislative district maps on census blocks

15 as opposed to wards; is that correct?

16 A I don't know about advantages. I note that there

17 are -- it impacts the timeline in how you go about

18 drawing the districts.

19 Q Can you take a look at the last paragraph on

20 page 2?

21 A The last paragraph?

22 Q Correct.

23 A Okay.

24 Q It says, "The last potential (while a very long

25 shot in my opinion) consideration that Mike White

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1 mentioned was if the census was able to accelerate
2 the data release of data to January of 2011, if
3 plans could be drawn on blocks they could be
4 completed before the current legislature and
5 governor depart." Do you see that?
6 A I do.
7 Q Why would that be an advantage?
8 A Well, again, I don't know about advantage or
9 disadvantage. It discusses the timeline of when
10 plans could be drawn.
11 Q Would there be -- would there be anything
12 beneficial to writing a map before the current
13 legislature and governor depart, as you mentioned
14 in your memo?
15 A It discusses the timeline of when maps, you know,
16 could be drawn.
17 Q Right. But it talks about in terms of potential.
18 What is the potential?
19 A It would mean that they would be drawn by the
20 legislature at that time. You know, those who
21 were in the legislature at that time during
22 January of 2011.
23 Q What was the -- and were the democrats or the
24 republicans in the majority at that time?
25 A During the very first days of January, it would

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1 have been the democrats.
2 Q And there was a democrat in the -- as governor at
3 that time as well, true?
4 A During the first several days of the month.
5 Q Is that the potential that you were referencing in
6 this last paragraph, that the legislature and the
7 governorship were controlled by democrats?
8 MS. ARENDS: Objection, the
9 document speaks for itself.
10 A Yeah, I mean, it says that you could draw plans in
11 January with the current legislature.
12 Q And that current legislature being democratic?
13 A For the first several days of the month, they
14 were, yes.
15 Q And the governor being democratic as well?
16 A Until January 3rd, I believe.
17 THE VIDEOGRAPHER: The time is
18 1:05. We are going off the record
19 concluding Disk No. 1 of the deposition of
20 Mr. Joel Gratz.
21 (Recess taken)
22 (Exhibit No. 1032 marked for
23 identification)
24 THE VIDEOGRAPHER: We are on the
25 record. The time is 1:17. This marks the

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1 beginning of Disk No. 2 in the deposition of
2 Mr. Joel Gratz.
3 Q Mr. Gratz, you have in front of you what has been
4 marked Exhibit 1032. I'll represent to you that
5 these are e-mails that we printed off of the CD
6 that you -- your counsel provided to us this
7 morning. And if you should have any reason to
8 question that as we go through these documents,
9 please do let me know. But for now, if we could
10 just assume that this is a copy of what we took
11 from the CD, that would be great. I'd like you to
12 look at the first page, to begin with. Down at
13 the bottom, there is --
14 MR. EARLE: Hey Dan, is there a way
15 to get a mic near you or the phone or a mic
16 near you somehow?
17 MR. KELLY: Yeah. Let's see if we
18 can move the phone a little closer.
19 MR. EARLE: I can hear Joel
20 perfectly well, but you, you're talking from
21 a tunnel there.
22 MR. KELLY: Well, and Peter, that's
23 probably because I'm so soft-spoken and
24 unassuming and retiring even.
25 MR. EARLE: We'll have to ask your

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1 kids that question.
2 MR. KELLY: Don't. Is that any
3 better, Peter?
4 MR. EARLE: Yeah, much better.
5 MR. KELLY: Okay, great.
6 Q All right. So Mr. Gratz, we're looking at the
7 bottom of the page, there is an e-mail from
8 Michelle McGrorty; do you see that?
9 A Correct.
10 Q Who is she?
11 A She works for the Greater Wisconsin Committee.
12 Q And what is that?
13 A They're a -- I'm not exactly sure how they're
14 constituted, but they're a group that does
15 political work. I would actually note that this
16 probably -- e-mail probably is outside the scope
17 of what was requested since it doesn't deal with
18 the redistricting at all. I think it got included
19 because I searched for certain names such as
20 Rich Judge, who works for the legislature, and
21 this must have gotten caught up in it.
22 Q All right. That's fair. So in the body of the
23 e-mail when she refers to the *toplines* from the
24 poll, that doesn't have anything to do with the
25 redistricting effort?

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1 A That is correct.
 2 Q All right. Let's turn to an e-mail from
 3 July 13th, 2011 from Jamie Kuhn to you. Looks
 4 like this, yeah.
 5 A Okay.
 6 Q All right. That appears to be a forward of an
 7 e-mail from Bill Lanier from the City of Madison;
 8 do you see that?
 9 A Yes, I do.
 10 Q Who is Bill Lanier?
 11 A I have no idea.
 12 Q The subject is *Redistricting PDF File*. Do you
 13 recall if there was a redistricting PDF file
 14 attached to this?
 15 A Well, just looking at the e-mail itself, it's
 16 clear that there was a PDF file of some -- some
 17 maps of the city of Madison attached to it.
 18 Q What do these maps represent; do you know?
 19 A I -- I don't personally recall looking at this --
 20 I don't recall reading this e-mail. Looking at
 21 the headings, it says proposed Assembly districts.
 22 And so I'm presuming that it relates to some
 23 districts in the city of Madison, but beyond what
 24 I can see, I don't know.
 25 Q So for example, you wouldn't know who proposed

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1 those Assembly districts?
 2 A I don't. They appear to be the Act 43 districts.
 3 Q Do you know why Jamie Kuhn might have wanted you
 4 to see this?
 5 A Not recalling this e-mail and not seeing anything
 6 that discusses it, I do not.
 7 Q Let's turn to the end of that series right after
 8 the maps, okay. Do you see an e-mail from
 9 Mike White?
 10 A Yes.
 11 Q It says *Copied and saved v3 plan as v4*; do I
 12 understand that to mean version 3 and version 4?
 13 A Yes, that's correct.
 14 Q And what version of what would this be? Let me
 15 try this again. There are versions of something
 16 being made; what was being made here?
 17 A This references the plan mentioned earlier that
 18 Mike White and I worked on mainly over that
 19 weekend that I said was incomplete. And I believe
 20 that version 4 is roughly where we left the map
 21 at.
 22 Q What was the reason for having different versions?
 23 A The main reason is the redistricting software can
 24 be very buggy at times, and it's easy for the
 25 whole thing to crash and lose the work you've

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1 done. So saving it one version to the next means
 2 if something goes bad, you don't have to go back
 3 to square one.
 4 Q Would you have gotten any input from any of the
 5 democratic legislators on any of those versions?
 6 A I don't recall. I think the main reason for us
 7 doing the versions and saving them was I worked
 8 for a while, left it for him to do some work for a
 9 while, and so on.
 10 Q Okay. Let's go three pages beyond that. At the
 11 top of the page, there is a July 12th, 2011 e-mail
 12 from you to Mike White. Let's make sure we're on
 13 the same page here?
 14 A Yes, correct.
 15 Q Below that in an e-mail from Mike White apparently
 16 to you, and he says *Wow, those are some ugly*
 17 *districts*; do you see that?
 18 A I do.
 19 Q What districts was he commenting on?
 20 A It appears from the context of the e-mail that
 21 he's commenting on districts that the Wisconsin
 22 Democracy Campaign created and posted on their
 23 website.
 24 Q And had you referred at any time to the
 25 redistricting maps that the democracy campaign had

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1 developed?
 2 A Can you --
 3 MS. ARENDS: Objection to form.
 4 A I'm not quite sure what you mean by referred to or
 5 the time frame or to whom.
 6 Q Okay. Let me try this, have you ever reviewed any
 7 proposed maps drawn by the democracy campaign?
 8 A I know that the democracy campaign came up with
 9 their own redistricting map, and that I, you know,
 10 when they posted it, I looked at the map. I don't
 11 recall that any analysis was done beyond kind of
 12 generally looking at it, and I don't -- I guess it
 13 does say that we had asked him for the shapefiles.
 14 I don't even recall. Those would be the files
 15 that would actually allow analysis, and I can't
 16 off the top of my head recall if we actually
 17 received those or not.
 18 Q Let's go another six pages.
 19 A Okay.
 20 MS. ARENDS: Are we all on the
 21 right page here?
 22 MR. KELLY: Not quite.
 23 Q All right. I'm looking at an e-mail from
 24 Mike White to you dated July 10th, 2011.
 25 A Okay.

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1 Q And it says -- it starts at the top of the page,
2 so it will look a little bit like this.
3 A This one.
4 Q There you go.
5 A Just to confirm, the one that says subject,
6 remapping?
7 Q Yes.
8 A Okay.
9 Q Perfect. It mentions that you worked a lot on
10 western Wisconsin and northern Wisconsin; do you
11 see that?
12 A Yes.
13 Q Why were you concentrating on those areas?
14 A I don't know that there was a particular reason
15 other than the goal was to create an entire
16 state-wide Assembly redistricting plan, and you
17 know, in terms of working around the state, that
18 was, at that point, just, you know, what I focused
19 on.
20 Q And you mentioned that you never did complete the
21 map; is that right?
22 A I would not call the map complete, yes.
23 Q Why was it never completed?
24 A I would say it was not completed. I mean, from my
25 own perspective, there was not time to complete

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1 it. It takes, you know, a long time to, you know,
2 I think come up with a good redistricting map,
3 more than just one weekend. The process was
4 moving quickly as far as the other maps that have
5 been introduced passing, and given that, I don't
6 know that we could have completed it before the
7 legislature acted.
8 Q Was there a reason that you were not able to start
9 working on the map earlier?
10 A The reason we didn't start working on the map
11 earlier is that the law provides for drawing, or
12 at that time, provides for drawing maps based upon
13 ward boundaries, which were not available at that
14 time.
15 Q When you were drafting these versions of the map,
16 what was that based on?
17 A That was based upon the block -- the census
18 blocks, and at that point, you know, we went ahead
19 and worked on the map based upon the census blocks
20 given that, you know, the republican majority had
21 already introduced a plan that was based upon
22 those, and we had no other choice but to work with
23 that information.
24 Q Could you begin working on a map based on census
25 blocks earlier than you actually did?

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1 A Given that at that point the process was to and
2 the law was to create maps with ward boundaries
3 that municipalities had created, I would say no.
4 Q Also, in this e-mail, it says you are trying to
5 look at Fred's desires on the Green Bay area; do
6 you see that?
7 A Yes.
8 Q What were Fred's desires on the Green Bay area?
9 A I don't know specifically what the desires were.
10 I think what we would have done was taken
11 Representative Kessler's map and looked at what
12 work he had done in Green Bay and compare it to,
13 you know, the work we had been working on.
14 Q Do you know how they compared?
15 A I don't recall exactly, no.
16 Q Do you recall how Mr. Kessler's map at that time
17 had compared to what the republicans had proposed?
18 A I have not reviewed his map for some time.
19 Q Do you have any general idea about what Fred
20 wanted in the Green Bay area?
21 A Not that I could -- not that I could describe
22 right now, no.
23 Q What would you need to look at to be able to
24 describe that?
25 A At minimum, I would need to look at his map and

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1 that may not really -- you know, that may not
2 completely refresh me of his desires. I don't
3 know that I could describe his desires without,
4 you know, talking to him again because I just
5 don't think I recall anymore what, you know, he
6 was -- what he was drawing or what his thoughts
7 were on the area.
8 Q Fair enough. It goes on and says *Moved a lot of*
9 *population to the Wausau area that needs to be*
10 *straightened out and thought we needed to discuss*
11 *Green Bay or GB and how to make that work; do you*
12 *see that?*
13 A I do.
14 Q What needed to be straightened out?
15 A Well, what this is really kind of describing is
16 when you draw a redistricting map, you have -- we
17 were working on the idea of trying to create
18 districts that were -- you know, causes least
19 disruption for voters, and thus was as close as
20 possible to the previous redistricting map. There
21 are -- the districts vary in population after the
22 census, and so, you know, the process of kind of
23 moving the boundaries is what I'm talking about
24 when I say moved population. And I think, you
25 know, in terms of Wausau area, that needs to be

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1 straightened out, yeah, I think implies that we
2 still had districts that needed to be, you know,
3 brought into a reasonably small deviation for
4 population in that area.
5 Q Were you eventually able to do that with that part
6 of the map?
7 A I don't recall anymore since it has been a while
8 since I've looked at the status of the map at the
9 end.
10 Q What about Green Bay did you need to discuss to
11 make that work?
12 A Again, I have not looked at that map for, you
13 know, six months or more, so I don't recall.
14 Q Let's go two pages beyond that.
15 A Okay.
16 Q And in the upper third of that page, there is an
17 e-mail from Andy Gussert dated July 9th, 2011; do
18 you see that?
19 A I do.
20 Q Somehow or other, that eventually made its way to
21 you, yes?
22 A Yes.
23 Q Who was Andy Gussert?
24 A At the time of this e-mail, Andy Gussert was the
25 director of the Assembly Democratic Campaign

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1 Committee.
2 Q Do you know why he was sending you this e-mail?
3 A Given how the e-mail was addressed back to
4 himself, I assume this was cc'd to a number of
5 people, and if it was a blind cc, as it appears to
6 be, I don't know who all it went to. I think the
7 purpose was to -- you know, it talks about which
8 districts there are pairings and open seats, and
9 he was wanting to share that information with some
10 others.
11 Q Do you know why it would have been important for
12 him to share that with you?
13 A I don't know why that would have -- you know, I
14 would have already had determined what those pairs
15 were. He may -- not knowing who all, my guess is
16 he just sent this out to a large number of people.
17 I'm guessing. I guess I don't know what purpose.
18 Q Sure. It says in the last sentence of that first
19 paragraph in his e-mail, "Please keep confidential
20 for time being, and do not post or forward
21 widely."
22 A Uh-huh.
23 Q Do you know why he wanted to keep that
24 confidential?
25

MS. ARENDS: Objection, he

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1 already --
2 A Yeah, I have no idea what his thoughts were when
3 he wrote this.
4 Q Did you see anything in this e-mail that warranted
5 it being confidential?
6 A I guess that would be his judgment if something
7 ought to be confidential or not.
8 Q Let's skip forward to a page that contains an
9 e-mail from Rich Judge dated April 8th, 2011?
10 A April 8th, oh, yes.
11 Q Yes, that looks like it.
12 A Okay.
13 Q Let's go about halfway down the page there. Looks
14 like an e-mail from Doug Burnett dated April 3rd,
15 2011; do you see that?
16 A I see that.
17 Q Do you know what that was about?
18 A It appears to be confirming or providing
19 information on a redistricting meeting.
20 Q Who was Doug Burnett?
21 A Doug Burnett works for the labor union AFSCME as
22 one of their lobbyists, among other things.
23 Q Do you understand this to be setting up a
24 conference call with AFSCME?
25 A It appears to be a meeting that also allows a

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1 conference call, yes.
2 Q Did you participate in that call?
3 A I -- I was invited to. I presume I did. I
4 don't -- I have participated in meetings with
5 these individuals. I don't -- you know, could not
6 100 percent say it was this date, but I presume
7 so.
8 Q How many meetings would have you participated in
9 with individuals from AFSCME?
10 A In regards to redistricting?
11 Q Yes, thank you.
12 A I don't know an exact number.
13 Q More than five?
14 A Unlikely.
15 Q Somewhere between one and five?
16 A That would be my guess. I would not want to, you
17 know, be held to that. This may have been the
18 only one, or there may have been a couple
19 subsequent.
20 Q Let's turn to the next page, and there's an e-mail
21 from you to Rich Judge and Cathy Friedl dated
22 March 22nd, 2011; do you see that?
23 A I do.
24 Q In the body of the -- this letter says, "Another
25 thing about Fred. He needs to be reminded that it

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1 would be best if no maps were drafted at this
 2 time." Why would it best if no maps be drafted at
 3 that time?
 4 A Well, I believe the rest of the e-mail describes
 5 that, which was that I -- you know, my personal
 6 opinion was that the legislature should get legal
 7 advice on -- you know, before drawing maps
 8 particularly that included Milwaukee, they should
 9 get legal advice on how to properly take race into
 10 account given the current laws.
 11 Q Do you know if Fred had started drawing maps by
 12 that point?
 13 A I have no idea when he drew his maps.
 14 Q Just about done here. Let's go forward to a page
 15 that begins with an e-mail dated January 5th, 2011
 16 from Scott Adrian.
 17 MS. ARENDS: About how many pages?
 18 THE WITNESS: Quite a few.
 19 MR. KELLY: Probably 25, 30 pages.
 20 A January 5th, you said?
 21 Q Correct.
 22 A Okay.
 23 Q Well, this is working much better than I thought
 24 it would. All right. Let's look at the e-mail,
 25 it starts about in the middle of the page, from

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1 Scott Adrian to you dated January 4th, 2011.
 2 A Okay.
 3 Q Okay. There is a -- at the last two lines on that
 4 page, Mr. Adrian writes, "Why Barca made that
 5 motion and not include Dems I have no idea." Do
 6 you know what he meant by that?
 7 A Well, I don't know exactly what he meant by that.
 8 It appears to refer, immediately before that,
 9 which you did not read, was an item from the
 10 Wheeler report that describes the Assembly
 11 committee taking some action and what took place
 12 during that meeting, and that appears to reference
 13 that item.
 14 Q Okay. What motion do you think he was referring
 15 to?
 16 A Well, I can only -- I can only read what the item
 17 from Wheeler report says. I can read it if you
 18 wish me to.
 19 Q That's all right. I just wanted to know if you
 20 were aware of a particular motion that Mr. Barca
 21 had made?
 22 A I don't know of anything other than what's in that
 23 item that's from Wheeler report.
 24 Q All right. The last sentence that begins on that
 25 page follows to the next page, "So there you have

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1 it-officially screwed."
 2 A Okay.
 3 Q Do you have any idea what he meant by that?
 4 A Well, the item, again, going back to the item, the
 5 item relate -- from Wheeler report relates to
 6 Assembly republicans hiring the firm of
 7 Michael Best. It appears to not include, you
 8 know, the opportunity for democrats to hire a
 9 lawyer, and I think that's what it's referencing.
 10 Q Do you know if the democrats eventually ever did
 11 hire an attorney to address redistricting matters?
 12 A I know that they were never permitted to hire a
 13 lawyer through the legislature, and I don't
 14 believe they are, you know, represented themselves
 15 at all in regards to redistricting that I know of.
 16 Q Did they, to your knowledge, did they have anybody
 17 working on, besides yourself, alternative maps?
 18 A Not that I'm aware of, no. Well, outside of --
 19 yeah, I mean, the work I did in conjunction with
 20 Mike White, of course.
 21 Q Were you paid for that work?
 22 A No, I was not.
 23 Q Were you supposed to have been paid for that work?
 24 A When -- there was never any understanding
 25 regarding work drawing maps. The previous year

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1 when I was working with Mike Sheridan and his
 2 staff when he was speaker, we had discussed that I
 3 would, you know, be brought on as a consultant for
 4 them, but it never formally happened, and I was
 5 not paid, no.
 6 Q All right. Let's put that exhibit to the side,
 7 and we'll go back to the computer. And what I'd
 8 like to do is just kind of get an understanding, a
 9 general understanding, we won't go through the
 10 files in detail. I just want a general
 11 understanding of what's on there. So if you could
 12 scoot that in my direction so that I might be able
 13 to look over your shoulder while not appearing in
 14 the camera, that would be great. All right. So
 15 let's start at the root directory for the CD.
 16 A Okay.
 17 Q And tell me generally what I'm seeing on this
 18 directory?
 19 A Okay. The first directory is called *Discovery*
 20 *Reply*. Generally, this has a number of subfolders
 21 within it. There's a folder, 2266; that was the
 22 LRB draft number, as I recall, of the plans that
 23 eventually became Act 43. I believe that folder
 24 contains some of the Autobound files for those
 25 maps.

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1 Q And those would have been provided to you by the
2 LRB or LTSB?
3 A Correct. There's a folder called AB 9, this
4 folder appears to contain the redistricting maps
5 that were in effect during the 2001 to 2011 time
6 frame.
7 Q Uh-huh.
8 A There's a folder *Autobound Plan Exports*. That
9 appears to be the most recent version of the plan
10 that I had worked on with the legislature.
11 There's a folder *Data*, which appears to be
12 duplicative of the 2266 folder. I think it's
13 those plans and data again. There's a folder
14 called *Desktop*, which has a variety of other plan
15 files, again, more -- you know, just more copies
16 really of 2266, the Senate Districts, the
17 Assembly Districts.
18 It looks like it has Representative Kessler's
19 plan. It has an earlier version of the plan I had
20 worked on. It has some reports really into core
21 constituency. It has a file showing the locations
22 of incumbent legislators. It has some more
23 analysis that shows the pairings of
24 representatives. So it's items reviewing the plan
25 that became Act 43. There's a folder called

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1 *Discovery*, which is documents that I have located
2 that were responsive to the subpoena. Within
3 that, a folder of Assembly, redistricting work,
4 mostly the items we've talked about here. There's
5 a folder *GK Law Redistricting* that is reports, the
6 analysis that I had prepared for the experts
7 looking at compactness, looking at population
8 demographics of the districts.
9 MS. ARENDS: Just to clarify, those
10 are all discoverable. These are not
11 anything, not waiving anything. It's the
12 title, just so you know.
13 A There's another folder, *Ken Mayer Voces*, which
14 shows some work I did for Professor Mayer in
15 regards to Latino -- the work he did on Latino
16 districts in Milwaukee. There's a folder
17 *Miscellaneous*. Again, this appears to be mainly
18 Autobound files of redistricting plans, mainly the
19 ones that were introduced. There's a file,
20 *Peter Earle Requests From Ken*, and this is data I
21 provided to Ken that he would have utilized in his
22 reports. *Plans* is another folder. Again,
23 contains the plan introduced that became Act 43,
24 the amendment to that plan. The congressional
25 plan that was approved, earlier versions of the

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1 map I worked on. *Redistricting Plan Reports* has
2 two folders that contain reports on split
3 geography, population shifts within both the draft
4 plan that became Act 43 as well as, it appears,
5 Representative Kessler's plan. There's a folder,
6 *Shapefile Revised*. Looks like it's the final
7 Act 43 Autobound shapefile. There's the folder
8 *WAL Presentation Maps* that we discussed here
9 earlier today.
10 And then there are a variety of files. Some
11 of these are just large map printouts. Some of
12 these are maps that Professor Mayer had asked me
13 to produce relating to districts in Milwaukee.
14 There are summaries of the core population
15 retention within the districts. Yeah, so that is
16 all -- I think that's everything within, broadly,
17 the folder that's called *Discovery Reply* on the
18 disk.
19 Q All right. What else do we have then outside of
20 that folder?
21 A Outside of that, there's then the e-mails that
22 have been provided as a PDF, and there is also a
23 file that's just called 0001 PDF, which is a scan
24 of some handwritten notes that I had.
25 Q Are those your handwritten notes?

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1 A They are a combination of some of my writing as
2 well as some other writing. It's not all entirely
3 mine.
4 Q Who else's writing would be there besides yours?
5 A The other writing that I recognize is Professor --
6 is I believe Professor Mayer's writing.
7 Q Can you identify which pages those appear on?
8 A The -- actually, if I could strike that, I believe
9 that the -- I don't know that I can tell you 100
10 percent whose writing is which. The first page
11 that I originally identified as Professor Mayer
12 may actually have been Professor Nordheim's
13 writing on page 1, and most all of what's on
14 page 1 other than at the very bottom where it says
15 year by year tracked is his writing, I believe.
16 Other writing that isn't mine, on page 6, there
17 are drawings and writing, and these are
18 Professor Mayer's drawings and writing. Page 7 is
19 the same. And then it appears all other -- it
20 appears all other handwriting is my own.
21 Q Were you retained by Voces de la Frontera in this
22 case?
23 A I was retained by -- by, you know, Peter Earle to
24 work with Professor Mayer, yes, and his clients.
25 Q All right. If you'll give me just a few moments

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1 off the record.

2 THE VIDEOGRAPHER: The time is

3 1:50. We are going off the record.

4 (Recess taken)

5 THE VIDEOGRAPHER: The time is

6 1:54. We are back on the record.

7 MR. KELLY: All right. I have

8 nothing further.

9 MS. LAZAR: That concludes the

10 deposition. Thank you for coming, Mr. Gratz.

11 THE VIDEOGRAPHER: We are off the

12 record. This concludes the video deposition

13 of Mr. Joel Gratz. The time is 1:54.

14 (Adjourning at 1:54 p.m.)

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1 employed by the parties hereto or financially

2 interested in the action.

3 In witness whereof I have hereunto set my

4 hand and affixed my notarial seal this 3rd day of

5 February 2012.

6

7

8 Notary Public, State of Wisconsin
Registered Professional Reporter

9 My commission expires

10 April 21, 2013

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1 STATE OF WISCONSIN)

2) ss.

3 COUNTY OF DANE)

4 I, BRANDÉ A. BROWNE, a Registered Professional

5 Reporter and Notary Public duly commissioned and

6 qualified in and for the State of Wisconsin, do

7 hereby certify that pursuant to subpoena and notice,

8 there came before me on the 30th day of January 2012,

9 at 9:11 in the forenoon, at the offices of

10 Reinhart Boerner Van Deuren S.C., Attorneys at Law,

11 22 East Mifflin Street, Suite 600, the City of

12 Madison, County of Dane, and State of Wisconsin, the

13 following named person, to wit: JOEL A. GRATZ, who

14 was by me duly sworn to testify to the truth and

15 nothing but the truth of his knowledge touching and

16 concerning the matters in controversy in this cause;

17 that he was thereupon carefully examined upon his

18 oath and his examination reduced to typewriting with

19 computer-aided transcription; that the deposition is

20 a true record of the testimony given by the witness;

21 and that reading and signing was not waived.

22 I further certify that I am neither

23 attorney or counsel for, nor related to or employed

24 by any of the parties to the action in which this

25 deposition is taken and further that I am not a

relative or employee of any attorney or counsel

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